



Attorney Docket No. T11355.E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: SCOTT L. NIELSON et )  
al. )  
TITLE: A METHOD, PROCESS AND )  
COMPUTER PROGRAM TO )  
AUTOMATICALLY CREATE A ) PETITION TO REVIVE AN  
CUSTOMIZED THREE- ) UNINTENTIONALLY ABANDONED  
DIMENSIONAL NAIL ) APPLICATION UNDER  
OBJECT BY WELDING ) 37 C.F.R. § 1.137(b)  
SERIAL NO.: 10/710,961 )  
FILED: August 15, 2004 )  
EXAMINER: R. Frejd )  
ART UNIT: 2128 )

Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.137(b), an application that was unintentionally abandoned may be revived as a pending application if the delay was unintentional. Applicant hereby petitions to revive United States Patent Application Serial No. 10/710,961,

Certificate of Deposit Under 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Office of Petitions, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 28 day of December, 2007.

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Grant R. Clayton  
Attorney Registration No. 32,462  
Attorney for Applicant

which became unintentionally abandoned. Small entity status is proper and is hereby claimed. A petition to revive an unintentionally abandoned application must be accompanied by:

- (1) a proposed response;
- (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); and
- (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional."

U.S. Application No. 10/710,961, entitled "A METHOD, PROCESS AND COMPUTER PROGRAM TO AUTOMATICALLY CREATE A CUSTOMIZED THREE-DIMENSIONAL NAIL OBJECT BY WELDING," was filed on August 15, 2004. A first Office Action was mailed on June 28, 2006. Enclosed herewith is the required response to the First Office Action dated June 28, 2006, which is intended to satisfy the first requirement for the proposed response referenced above.

Submitted herewith is a completed Form PTO-2038 authorizing the Commissioner which includes the fee pursuant to 37 C.F.R. § 1.17(m) of \$750 which satisfies the second requirement referenced above. Please charge any additional fees or credit any overpayment to Deposit Account No. 50-0836.

Pursuant to the third requirement of 37 C.F.R. 1.137(b), the undersigned, hereby states that the entire delay in filing the required reply from the due date for the reply until the filing of

a grantable petition was unintentional. The following is a summary of the relevant facts surrounding this delay:

1. The named inventors, Craig Gifford and Scott Nielson, assigned at least a part of their rights in various patents and patent applications, including the current patent application, to an entity known as True Fit Nails, LLC. This fact has been established in a Federal Court action entitled Artificial Nail Technologies, Inc., et. al. v. Flowering Scents, LLC, et. al. filed in the United States District Court for the District of Utah and bearing civil no. 2:06-cv-609 (hereinafter referred to as the "ANT litigation"). As set forth in paragraphs 12 and 28 of the Complaint, True Fit Nails, LLC acquired and developed technologies related to artificial nail products, including an interest in the current patent application. A copy of the Verified Complaint from the ANT litigation is attached hereto as Exhibit "A."
2. On or about June 14, 2005, True Fit Nails LLC assigned all of its assets, including its interest in the current patent application to an entity known as Artificial Nail Technologies, Inc. in exchange for

stock of Artificial Nail Technologies, Inc. See Exhibit A, paragraph 28 of the Verified Complaint.

3. On or about February 28, 2006, Artificial Nail Technologies, Inc. entered into an Asset Contribution Agreement, wherein Artificial Nail Technologies, Inc. assigned its interest in the current patent application to an entity known as Sevea International, Inc. A copy of the Asset Contribution Agreement is attached hereto as Exhibit "B." See Exhibit B to the Asset Contribution Agreement which expressly lists the current application as one of the assets being conveyed to Sevea International, Inc.
4. The parties to the Asset Contribution Agreement had a falling out and the result was the ANT litigation referred to above.
5. One of the issues in the ANT litigation involved title to and the right to control of the current patent application. See Exhibit A; See also Memorandum in Support of Motion for Writ of Replevin from the ANT litigation attached hereto as Exhibit "C."



6. On July 5, 2007, the court in the ANT litigation issued an order for a writ of replevin that ordered, in pertinent part, that the intellectual property purportedly conveyed by Artificial Nail Technologies, Inc to Sevea were to be returned to Artificial Nail Technologies. A copy of the court's Findings of Fact, Conclusions of Law and Order is attached hereto as Exhibit "D."
7. The named inventors in the current patent application assigned their interest in the current patent to American Equities Management, LLC, which assignment was recorded on September 24, 2007. A copy of this Assignment is attached as Exhibit "E."
8. However, Craig P. Gifford, one of the named inventors in the current patent application, was subject to an injunction entered in the Third Judicial court of Salt Lake County, State of Utah on May 4, 2007 in a certain action entitled Michael N. Macris, et. al. v. Sevea International, et. al., Case No. 070903010, hereinafter the "Macris litigation." A copy of the Findings of Fact, Conclusions of Law, and Preliminary Injunction

issued by Judge Robert P. Faust is attached hereto as Exhibit "F."

9. The preliminary injunction of Exhibit F by its terms, *inter alia*, prevented Craig Gifford from utilizing or disclosing trade secrets involving artificial nail technology, including the technology surrounding the patent application in question.
10. A hearing that included a clarification by the court of the scope of the preliminary injunction of Exhibit F was held on December 17, 2007.
11. Issues concerning ownership and control of certain artificial nail technology that were at issue in the ANT litigation and the Macris litigation, including the current patent application, as well as the issues involving the numerous assignments, purported assignments, contested assignments and litigation, as well as issues and uncertainty regarding the legal ability of the inventors to discuss the issues surrounding the current patent application has resulted in the unintentional delay in filing the response which accompanied this petition.

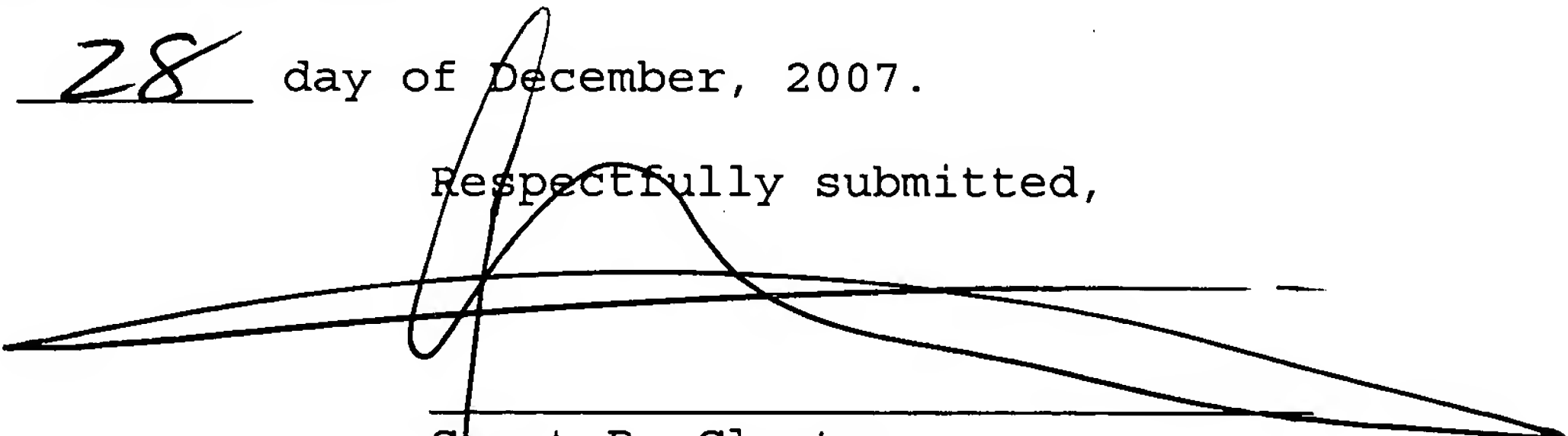
The undersigned respectfully petitions that the above-identified application be revived as all of the requirements of 37 C.F.R. 1.137(b) have been met and the entire delay in filing the required response was unintentional.

Pursuant to 37 C.F.R. 1.136(a), it is respectfully requested that the shortened statutory period which was set for responding to the Office Action dated June 28, 2006, be extended for three months. Submitted herewith is a completed Form PTO-2038 which includes the fee pursuant to 37 C.F.R. 1.17(a)(3) of \$525 as required. Please charge any additional fees or credit any overpayment to Deposit Account No. 50-0836.

Any questions regarding this petition may be directed to the undersigned. The undersigned would welcome a telephone conference if the need arises.

DATED this 28 day of December, 2007.

Respectfully submitted,



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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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ARTIFICIAL NAIL TECHNOLOGIES,  
INC., a Utah corporation and TRUE FIT  
NAILS, LLC a Utah limited liability  
company;

Plaintiffs,

vs.

FLOWERING SCENTS, LLC, a Nevada  
limited liability company; SEVEA  
INTERNATIONAL, INC., a Nevada  
corporation; MICHAEL MACRIS, an  
individual; CHRISTINA MCNALLY, an  
individual; and CRAIG GIFFORD, an  
individual;

Defendants.

**VERIFIED COMPLAINT**

Civil Action No. 2:06-cv-609

Judge: Dale A. Kimball

**(Jury Trial Demanded)**

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Plaintiffs Artificial Nail Technologies, Inc., and True Fit Nails, LLC (collectively "Plaintiffs"), by and through their counsel of record, hereby complain against Defendants Sevea International, Inc., Flowering Scents, LLC, Michael Macris, Christina McNally, and Craig Gifford (collectively "Defendants"), and allege and state as follows:

## PARTIES

1. Plaintiff Artificial Nail Technologies, Inc. ("ANT") is a Utah corporation, with its principal place of business at 2550 South Decker Lake Boulevard, No. 1, West Valley City, Utah 84119.
2. Plaintiff True Fit Nails, LLC ("TFN") is a Utah limited liability company having a principle place of business at 2550 South Decker Lake Boulevard, No. 1, West Valley City, Utah 84119.
3. On information and belief, Defendant Flowering Scents, LLC ("FS") is a Nevada limited liability company having a principle place of business located at 7204 W. Washington Ave., Las Vegas, Nevada 89128.
4. On information and belief, Defendant Sevea International, Inc. ("Sevea") is a Nevada corporation having a principle place of business located at 2550 S. Decker Lake Boulevard, No. 1, West Valley City, Utah 84119.
5. On information and belief, Defendant Michael Macris ("Macris") is an individual residing in County of Clark, State of Nevada. Upon information and belief, Macris was Secretary, Treasurer and Director of Sevea at all times relevant to the allegations set forth in this Verified Complaint.
6. On information and belief, Defendant Christina McNally is an individual residing in County of Clark, State of Nevada. Upon information and belief, McNally was a Director of Sevea at all times relevant to the allegations set forth in this Verified Complaint.

7. On information and belief, Defendant Craig Gifford ("Gifford") is an individual residing in County of Salt Lake, State of Utah. Upon information and belief, Gifford was a Director of Sevea at all times relevant to the allegations set forth in this Verified Complaint.

### **JURISDICTION AND VENUE**

8. This action arises and is brought under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, the Patent Act, 35 U.S.C. § 271, and the laws of the State of Utah.

9. Subject matter jurisdiction exists under 15 U.S.C. §§ 1121 and 28 U.S.C. §§ 1331, 1338, and 1367(a).

10. A substantial part of the events or omissions giving rise to the claims occurred within the State of Utah, and Defendants are, or were at all relevant times, conducting business in the State of Utah.

11. Venue is proper in the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1391(b)(2) and (c) because the acts of trademark and patent infringement occurred in this District, and Defendant's wrongful conduct has impacted Plaintiff within this District.

### **GENERAL ALLEGATIONS**

**ANT**

12. ANT is a Utah-based company that designs, manufactures, and sells various artificial nail products. ANT and its predecessor entity TFN have spent substantial time and money in acquiring and developing specialized technologies and processes related to these artificial nail products. In particular, ANT and TFN have perfected a custom-fit artificial nail enhancement process in which a consumer's fingernails are artificially enhanced by measuring

the consumer's unique fingernail anatomy, manufacturing a custom fit artificial nail based on this unique anatomy, and attaching the artificial nail to the consumer's existing fingernail. Because ANT's unique thermoplastic artificial nails are custom fit and reusable, they provide unparalleled safety, durability, and long-term affordability to consumers.

13. Since as early as April of 2004, ANT and TFN have advertised and sold their unique artificial nail products and services in the state of Utah and in other states under the name ACTIVNAL. A photocopy of an advertising brochure demonstrating ANT's use of its mark ACTIVNAL in commerce is attached as Exhibit A.

14. On or about February of 2006, Sevea began the unauthorized advertisement, offer for sale, and sale of artificial nails and related services under the name ACTIVNAL. A photocopy of an advertising brochure demonstrating Sevea's unauthorized use of ANT's mark ACTIVNAL is attached as Exhibit B.

15. At no time has ANT given Sevea permission, license, or authorization to use the mark ACTIVNAL.

16. Despite having knowledge of ANT's rights in the mark ACTIVNAL, Sevea has continued and will likely continue to willfully and deliberately engage in acts of trademark infringement unless enjoined by this Court.

17. Sevea's continued use of the mark ACTIVNAL has injured, is injuring, and will continue to cause irreparable injury to ANT's valuable trademark rights and market.

18. ANT is the owner of the entire right and interest to United States Patent No. 6,196,234, entitled "Precision Fit Fingernails" ("the '234 patent"). The '234 patent discloses and claims a novel "thermoplastic" precision-fit artificial fingernail that is "specifically formed to

have a configuration substantially identical in compliment to at least a portion [of] the exposed top surface of [a] specific real fingernail." See claim 1, col. 10, lines 46-56. A copy of the '234 patent, which is issued on March 6, 2001 and is both valid and currently enforceable, is attached as Exhibit C.

19. Sevea makes, uses, and sells artificial nails (hereafter, "Sevea's Artificial Nails") that infringe one or more of the claims of the '234 patent. For example, as conceded in a Sevea advertising brochure (attached as Exhibit D), and in clear infringement of at least claim 1 of the '234 patent, Sevea manufactures and sells artificial fingernails "made of virtually indestructible high impact thermo-plastic material" that are "specifically created to fit [the customer's] natural nails [sic] anatomy with precision accuracy."

20. At no time has ANT given Sevea permission, license, or authorization to use ANT's patented artificial nail technology.

21. Despite having knowledge of ANT's patent rights, Sevea has continued and will likely continue to willfully and deliberately engage in acts of infringement of the '234 patent unless enjoined by this Court.

22. Sevea's continued manufacture, use, offers for sale, sale, and distribution of Sevea's Artificial Nails has injured, is injuring, and will continue to cause irreparable injury to ANT's valuable patent rights and market.

#### *Non-Disclosure Agreements*

##### *Gifford's Non-Disclosure Agreement*



23. ANT's concepts, technologies, improvements, trademarks, trade secrets, pending patent applications and patentable interests, manufacturing processes, and other valuable information are proprietary and confidential (hereinafter "Proprietary Information").

24. ANT, and its predecessor TFN, took various steps to safeguard this Proprietary Information, including requiring those who had obtained such Proprietary Information to sign Confidential and Non-Compete Agreements (hereinafter "Non-Disclosure Agreements").

25. Prior to TFN's merger with ANT, Craig Gifford ("Gifford") was a manager and director of TFN. Consistent with TFN's practices to safeguard its Proprietary Information, and over the course of its business, Gifford would require those individuals that became aware of TFN's Proprietary Information to enter into Non-Disclosure Agreements with TFN. In so doing, Gifford would, on occasion, execute these Non-Disclosure Agreements on behalf of TFN.

26. On or about July 1, 2003, Gifford, himself, entered into a Non-Disclosure Agreement with TFN. A copy of Gifford's Non-Disclosure Agreement is attached as Exhibit E.

27. In the Non-Disclosure Agreement, Gifford expressly covenanted not to disclose TFN's Proprietary Information or compete, directly or indirectly, with TFN, for three years from the termination date of the Non-Disclosure Agreement.

28. On or about June 14, 2005, TFN assigned all of its assets to ANT in exchange for stock in ANT.

29. Under the terms of the Non-Disclosure Agreement, Gifford remained bound by the covenants in his Non-Disclosure Agreement when TFN contributed all of its assets to ANT.

30. As set forth below, Gifford has disclosed and/or used, and continues to disclose and/or use, ANT's Proprietary Information for the benefit of Sevea to compete directly with ANT.

*FS's, Macris' and McNally's Non-Disclosure Agreements*

31. On or about January of 2006, ANT began negotiations with Flowering Scents, LLC ("FS"), a multi-level marketing business.

32. In January and February of 2006, Macris and McNally, on behalf of FS, met with ANT.

33. In order to safeguard its Proprietary Information, ANT required FS, Macris and McNally to execute Non-Disclosure Agreements. On or about January 11, 2006 Macris and FS each entered into Non-Disclosure Agreements with ANT. On or about January 18, 2006, McNally entered into a Non-Disclosure Agreement with ANT. Copies of the FS, Macris and McNally Non-Disclosure Agreements are attached collectively as Exhibit F.

34. During the negotiations with ANT in January and February of 2006, FS, Macris and McNally each, and collectively, became aware of some or all of ANT's Proprietary Information.

35. Pursuant to the terms of the Non-Disclosure Agreements, FS, Macris and McNally each expressly covenanted not to disclose ANT's Proprietary Information or compete, directly or indirectly, with ANT for three years from the date of termination of their respective Non-Disclosure Agreements.

36. As set forth below, FS, Macris and McNally have disclosed and/or used, and continue to disclose and/or use, ANT's Proprietary Information for the benefit of Sevea to compete directly with ANT.

37. Pursuant to the Non-Disclosure Agreements, Gifford, FS, Macris, and McNally, each expressly agreed that, upon violation of their respective Non-Disclosure Agreements, ANT would be entitled to seek injunctive relief, among other remedies.

*The Asset Contribution Agreement*

38. In January of 2006, ANT desired to expand its marketing capabilities and began negotiations with FS, a multi-level marketing business that purported to possess a distributor pool and fulfillment agreements that could fill orders placed by its distributors.

39. On February 28, 2006, ANT and FS entered into that certain Asset Contribution Agreement (hereinafter the "ACA"), wherein FS and ANT agreed to contribute substantially all of their assets to the newly formed Sevea in return for equity in Sevea. A copy of the ACA is attached hereto as Exhibit G.

40. Specifically, the ACA provided that in exchange for ANT contributing substantially all of its assets to Sevea, ANT would receive 10,000,000 shares of Sevea common stock.

41. Despite entering into the ACA, no contribution or exchange took place among ANT, FS and Sevea as provided in the ACA. Specifically, ANT never received any shares of Sevea common stock or other consideration for its assets.

42. Pursuant to Section 7.3 of ACA, Sevea's failure to issue its common stock to ANT caused the ACA to terminate.

43. Indeed, counsel for Sevea confirmed the termination of the ACA in numerous discussions, and in writing, to Plaintiff's counsel. Specifically, counsel for Sevea stated, "the deal was never consummated – no meeting of the minds, two ships passing by each other on a stormy night." A copy of Sevea's counsel's email to Plaintiff's counsel dated April 17, 2006 is attached as Exhibit H.

44. Nevertheless, despite the termination of the ACA, and Sevea's acknowledgment of its termination, Sevea unlawfully seized and retained control of ANT's onsite facility located at 2550 South Decker Lake Boulevard, No. 1, West Valley City, Utah 84119 (hereinafter the "ANT facility"). Sevea has also unlawfully seized control of ANT's, assets, Proprietary Information, and other ANT property.

45. Moreover, despite the termination of the ACA, Gifford, Macris and McNally continue to disclose and use ANT's Proprietary Information, for the benefit of Sevea, to compete directly with ANT.

46. Notwithstanding Sevea's numerous representations that the ACA has been terminated, Sevea recently took the position that the ACA was never terminated. A copy of Sevea's counsel's letter to Plaintiff's counsel is attached hereto as Exhibit I.

47. As a result of Sevea's inconsistent positions, ANT has been forced to send written notice to Sevea terminating the ACA and again demanding return of its leasehold interest in the ANT facility, its other assets, trade secrets and Proprietary Information. A copy of ANT's letter to Sevea, dated July 21, 2006 is attached as Exhibit J.

48. To date, Defendants continue to ignore Plaintiffs' numerous demands for the return of its leasehold interest in the ANT facility, its other assets, and Proprietary Information.

49. Pursuant to Section 7.16 of the ACA, ANT, as the non-breaching party, is entitled to recover its attorney's fees. Furthermore, because Plaintiffs have been forced to bring this action for relief, they should be awarded reasonable costs and attorney's fees under applicable law.

## **FIRST CAUSE OF ACTION**

(Declaratory Judgment)

50. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

51. As set forth above, FS and Sevea each failed to perform under the ACA.

52. The parties' failure to perform caused the ACA to terminate in accordance with Section 7.3 of the ACA. Defendants have acknowledged this fact, but now contend the ACA was never terminated.

53. An actual, justiciable controversy now exists between Plaintiffs and Defendants regarding the present status of the ACA. Accordingly, the requested relief is proper under 28 U.S.C. §§ 2201 and 2202.

54. Pursuant to 28 U.S.C. §§ 2201 and 2202, ANT is entitled to a declaration that the ACA was terminated and is of no legal force or effect.

## **SECOND CAUSE OF ACTION**

(Injunctive Relief)

55. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

56. Unless restrained, Defendants will continue to substantially interfere with ANT's right to possess its assets and the ANT facility, continue to misappropriate ANT's trade secrets and Proprietary Information, continue its unauthorized and infringing use of the ANT's trademark ACTIVNAL, continue to infringe one or more claims of the '234 patent, and continue to conduct business in direct competition with ANT.

57. As a result, ANT will suffer irreparable injury and damage to its business, reputation, market share, and goodwill in its industry if Defendants are allowed to continue the actions described above. As damages cannot completely compensate ANT for the damage caused by Defendants' actions described above, and because Defendants have actual or constructive knowledge of the actions described above, ANT is entitled to a temporary restraining order and a preliminary and permanent injunction preventing Defendants from continuing the injurious actions described above.

### **THIRD CAUSE OF ACTION**

(Conversion)

58. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

59. Sevea willfully and without justification acquired and interfered with ANT's assets and Proprietary Information. Specifically, but not solely, Sevea has seized, and continues to exercise control over, the ANT facility and has used ANT's asset, established employees, office and manufacturing equipment, and other resources to compete directly against ANT.

60. Sevea's retention of ANT's assets and Proprietary Information constitutes a conversion of ANT's property for Sevea's own use.

61. As a direct and proximate cause of Sevea's conversion of ANT's assets and Proprietary Information, ANT has been damaged in any amount to be determined through an accounting or through other evidence, plus interest and additional damages as allowed by law.

#### **FOURTH CAUSE OF ACTION**

(Trespass to Chattels)

62. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

63. Plaintiff is the rightful owner of its assets and Proprietary Information and entitled to sole possession of their assets which include, but are not limited to, inventory, computers, computer equipment, manufacturing equipment, client files, cash reserves, securities, bank accounts, and other assets of ANT and property detained by Sevea.

64. Sevea intentionally dispossessed ANT of its assets and Proprietary Information, or otherwise used or intermeddled with its assets and Proprietary Information that ANT possessed or was lawfully entitled to possess.

65. ANT has suffered injury from Sevea's trespass to its chattels because ANT has been disposed of its assets and Proprietary Information, which has prevented ANT from conducting its business.

66. Sevea's acts of dispossessing or otherwise intermeddling with ANT's chattels were done without ANT's consent.



67. As a direct and proximate cause of Sevea's acts, ANT was damaged in an amount to be determined at trial.

## **FIFTH CAUSE OF ACTION**

(Replevin)

68. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

69. ANT is the legal owner of its assets which include, but are not limited to, inventory, computers, computer equipment, manufacturing equipment, client files, cash reserves, securities, bank accounts, and other assets of ANT and property detained by Sevea.

70. ANT has demanded return of its assets.

71. Sevea has wrongfully detained, seized and controlled ANT's assets.

72. ANT's assets have not been taken for tax assessment or fine pursuant to a statute or seized under and execution against the property of ANT.

73. ANT's assets are valued at approximately \$300,000.

74. Under the Federal Rules of Civil Procedure 64 and the Utah Rules of Civil Procedure 64B, ANT is entitled recover its assets.

## **SIXTH CAUSE OF ACTION**

(Breach of Duties - Fiduciary Duty of Care and Duty of Loyalty)

75. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.



76. Gifford was an officer and director of ANT.

77. In his capacity as officer and director, Gifford owed fiduciary duties and duties of loyalty to ANT and was obligated to discharge these duties in good faith and fair dealing with the care of an ordinarily prudent person in a like position under similar circumstances, and in a manner reasonably believed to be in the best interests of ANT.

78. Gifford breached or failed to perform the duties as an officer and director of ANT by, *inter alia*, using confidential ANT information to the corporation's detriment; engaging in self-dealing; failing to use all their ingenuity, influence, and energy and to employ all the resources of ANT to preserve and enhance the property and earning power of ANT; failing to manage ANT competently; wasting ANT assets; converting ANT assets; misappropriating ANT assets and Proprietary Information; fraudulently transferring and conveying ANT assets; and otherwise engaging in conduct constituting gross negligence, willful misconduct, or intentional infliction of harm to ANT.

79. As a result of the Gifford's breach of his fiduciary duties and duties of loyalty, ANT has suffered damages in an amount to be determined at trial.

## SEVENTH CAUSE OF ACTION

(Breach of Contract—Confidentiality and Non-Disclosure Agreement)

80. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

81. Gifford, FS, Macris, McNally each entered into Non-Disclosure Agreements with ANT.

82. Gifford, FS, Macris, McNally each have violated their respective Non Disclosure Agreement by, *inter alia*: failing to safeguard ANT's Proprietary Information and disclosing the same to Sevea, including but not limited to trade secrets, customer lists, customer identities, customer leads and lead sources; using ANT's Proprietary Information and materials other than for the sole purpose of conducting the business of ANT, including servicing clients at Sevea that originated with ANT; inducing clients to discontinue their relationship with ANT; and violating the non-compete provisions of their Non-Disclosure Agreements by directly competing against ANT.

83. ANT has been damaged by Gifford's, FS's, Macris', McNally's breach of the Non-Disclosure Agreements in an amount to be proven at trial.

## **EIGHTH CAUSE OF ACTION**

(Intentional Interference with Contract)

84. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

85. Gifford, Macris and McNally are, and since its formation have been, directors of Sevea.

86. Sevea had knowledge of the Non-Disclosure Agreement, and the business relationship between Gifford, FS, Macris, McNally and ANT.

87. Despite knowledge of this contractual and business relationship, Sevea intentionally interfered with the relationship by inducing Gifford, FS, Macris, McNally to disclose ANT's Proprietary Information.

## **NINTH CAUSE OF ACTION**

(Breach of Covenant of Good Faith and Fair Dealing)

88. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

89. Under Utah law, every contract and business relationship includes a covenant of good faith and fair dealing with respect to dealings between the parties. As such, the parties to a contract must deal fairly and honestly with each other.

90. The above described conduct on the part of Gifford, FS, Macris and McNally denies ANT the benefits and protections ANT was entitled to under its Non-Disclosure Agreements.

91. By breaching the Non-Disclosure Agreement, and more significantly, by taking actions designed to continue infringing upon ANT's ACTIVNAL mark, and associated goodwill, Gifford, FS, Macris and McNally have each breached the covenant of good faith and fair dealing. In addition, by taking actions to prevent ANT from receiving the benefits it was to receive under the Non-Disclosure Agreements, Gifford, FS, Macris and McNally each breached their covenants of good faith and fair dealing.

92. As a direct and proximate cause of Gifford's, FS's, Macris' and McNally's breach of the covenant of good faith and fair dealing, ANT has been damaged in an amount to be proven at trial.

## TENTH CAUSE OF ACTION

(False Designation of Origin and False Advertising  
§ 43(a) of Lanham Act, 15 U.S.C. § 1125(a))

93. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

94. Sevea's use of ANT's mark ACTIVNAL constitutes false designations of origin, false or misleading descriptions of fact, and/or false or misleading misrepresentations of fact. This unauthorized use by Sevea is likely to cause confusion, mistake, or deception of others as to the affiliation, connection, or association of Sevea with ANT, or as to the origin, sponsorship, or approval of Sevea's goods and services.

95. Sevea's acts of false designation, false description, and/or misrepresentation violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

96. Sevea's acts have caused and continue to cause damages and injury to ANT, for which ANT must be fully compensated. ANT may recover, as damages, an award in an amount to be determined at trial to compensate ANT for the injury and damages ANT has sustained as a result of Sevea's conduct.

97. ANT is entitled to an award of pre-judgment interest for the damages and injuries it has sustained as a result of Sevea's wrongful conduct.

98. Sevea's false and misleading descriptions and representations have caused and continue to cause irreparable injury to the value and goodwill of ANT's business and reputation. ANT has no adequate remedy at law because damages are continuing and difficult to ascertain, and is therefore entitled to a temporary restraining order and preliminary and permanent injunctions to immediately stop Sevea's wrongful conduct.

99. ANT is entitled to a recall order, which directs Sevea to recall all false Sevea advertisements and any other advertising, promotional or marketing material which make, either expressly or by necessary implication, false advertising claims specifically identified and pleaded in this Verified Complaint.

100. ANT is also entitled to a notification order from this Court directing Sevea to notify all distributors that sell or offer for sale products or services under the ACTIVNAL name of this Court's recall order.

101. ANT is entitled to a full accounting in respect to all gains, profits and advantages derived by Sevea through their false advertising, and a full and complete accounting in respect to its compliance with the Court's recall order and notification order.

102. Sevea's uses of ANT's ACTIVNAL trademark have been with full knowledge of ANT's rights. Sevea's infringing activities are willful and intentional, making this case exceptional within the meaning of 15 U.S.C. § 1117, thereby justifying an award of treble damages, attorneys' fees, and pre-judgment interest.

## **ELEVENTH CAUSE OF ACTION**

(Unfair Competition – Utah Unfair Competition Act)

103. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

104. In taking the above actions, Sevea has participated in unfair competition in violation of Utah Code Ann. § 13-5-101 *et seq.* The actions as alleged above constitute a misappropriation and infringement of ANT's ACTIVNAL trademark and accompanying

goodwill and reputation, and constitute acts of unfair competition under Utah Code Ann. § 13-5-101 *et seq.*

105.. Sevea's acts of infringement have caused and continue to cause material diminution in value of ANT's intellectual property and damages and injury to ANT for which ANT must be compensated. Such infringing activities of Sevea are willful and intentional, thereby justifying an award in an amount to be proven at trial.

## **TWELFTH CAUSE OF ACTION**

(Unfair Competition – Common Law)

106. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

107. In taking the above actions, Sevea has participated in unfair competition and unfair business practices. The actions as alleged above constitute a misappropriation and infringement of ANT's ACTIVNAL trademark and accompanying goodwill and reputation under the Lanham Act, federal common law, and the common law of the State of Utah, and constitute acts of unfair competition.

108. Sevea's acts of infringement have caused and continue to cause damages and injury to ANT for which ANT must be compensated. Such infringing activities of Sevea are willful and intentional, thereby justifying an award in an amount to be proven at trial.

### THIRTEENTH CAUSE OF ACTION

(Unfair Practices – Utah Unfair Practices Act)

109. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

110. In taking the above actions, the Sevea has committed and continues to commit unfair methods of competition in violation of Utah Code Ann. § 13-5-1, *et seq.* Sevea has committed violations of this Act in order to impede fair and honest competition in the artificial nail industry.

111. As a direct and proximate result of these violations, ANT has been damaged and will continue to sustain damage in an amount to be determined at trial.

112. ANT is entitled to an injunction and three times the amount of its damages and costs under Utah Code Ann. § 13-5-14.

### FOURTEENTH CAUSE OF ACTION

(Intentional and Improper Interference with Actual and Prospective Business Relationships)

113. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

114. Sevea's unauthorized use of ANT's ACTIVNAL trademark has prevented ANT from acquiring customers.

115. Before its interference, Sevea knew that its purported trademark rights in ACTIVNAL were invalid and that ANT retained and intended to continue to maintain these rights.



116. Sevea had actual and constructive knowledge of ANT's contractual and prospective business relationships with its customers, prospective customers, and concessionaires.

117. Nonetheless, Sevea has continued its unauthorized use of ANT's ACTIVNAL mark, falsely implying that ANT no longer sells, develops, or promotes products under the ACTIVNAL name. Sevea's intent clearly was to interfere with ANT's valuable business relationships and harm ANT's good name and reputation.

118. As a result of these actions, taken in bad faith by Sevea, ANT's reputation and business relationships with current and prospective customers and its current concessionaire have been damaged.

119. Sevea's acts were intentional and improper.

120. Sevea's acts have caused, and continue to cause, ANT to suffer actual damages in an amount to be proven at trial.

121. Sevea's acts, and the resulting injury to ANT, were attended by circumstances of malice, and willful and wanton conduct committed with reckless disregard for the consequences to and rights of ANT.

## **FIFTEENTH CAUSE OF ACTION**

(Misappropriation of Trade Secrets – Utah Uniform Trade Secrets Act)

122. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.



123. This claim for relief arises under the Utah Uniform Trade Secrets Act, Utah Code Ann. §§ 13-24-1 to 13-24-9.

124. ANT is the owner of certain trade secrets relating to, among other things, artificial nail products and services, actual and potential customers and advertisers, actual and potential customer lists and contact information, customer pricing, customer purchasing history, and other business information.

125. ANT has taken reasonable measures to protect these trade secrets and keep them confidential.

126. Sevea has misappropriated or threatened to misappropriate ANT's trade secrets for the purpose of exploiting its customers for their own benefit, without compensation to or permission from ANT.

127. Sevea's willful and threatened misappropriation of ANT's confidential and proprietary trade secrets has caused ANT actual and consequential damages and will continue to cause ANT damages and irreparable injury unless the Court enjoins Sevea. ANT, therefore, has no adequate remedy at law.

128. Sevea's misappropriation of ANT's trade secrets is attended by circumstances of fraud, malice, or willful and wanton disregard of ANT's rights.

129. As a result of Sevea's misappropriation of ANT's trade secrets, ANT has suffered and is entitled to actual and consequential damages, damages for unjust enrichment, punitive and exemplary damages, and costs, including witness fees, attorneys' fees, and pre-judgment and post-judgment interest.

## **SIXTEENTH CAUSE OF ACTION**

(Unjust Enrichment, Disgorgement and Constructive Trust)

130. ANT hereby incorporates all of the foregoing allegations as if set forth in full herein.

131. ANT is informed and believes that Defendants have generated and enjoyed, or will generate and enjoy, substantial profits as a result of the wrongful conduct alleged above.

132. As a result of Defendants' infringement of ANT's trademark rights, and Defendants' unfair competition, ANT has been damaged, and Defendants have been unjustly enriched. Such unjust enrichment continues to increase as the profits from Defendants' wrongful conduct continue to accumulate.

133. To the extent of Defendants' unjust enrichment, ANT is entitled to disgorgement of all ill-gotten gains and is entitled to the imposition of a constructive trust over all property or money in Defendants' control or possession as a result of its wrongful conduct.

## **SEVENTEENTH CAUSE OF ACTION**

(Civil Conspiracy)

134. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

135. The Defendants each conspired and agreed with one another and formed a common plan to perpetrate the foregoing tortious and unlawful acts. The Defendants each committed wrongful acts in furtherance of such conspiracy.

136. Therefore, each Defendant is, through their joint conspiracy, liable for the tortious and wrongful acts of the others who engaged in the conspiracy.

137. As a proximate and foreseeable consequence of Defendants' conspiracy, Plaintiffs has suffered and will continue to suffer damages as alleged herein, in an amount to be proven at trial.

138. The above-described conduct of Defendants was willful, malicious, fraudulent, and/or grossly negligent and demonstrates a knowing and reckless indifference to the rights of Plaintiffs, such that an award of punitive damages to Plaintiffs is warranted pursuant to Utah Code Ann. § 78-18-1.

## **EIGHTEENTH CAUSE OF ACTION**

(Patent Infringement)

139. Plaintiffs reallege and incorporate by this reference the preceding allegations of the Verified Complaint.

140. Sevea's actions as described above, and specifically Sevea's unauthorized manufacture, use, sale, offers for sale, and distribution of Sevea's Artificial Nails, constitute infringement of the '234 patent under 35 U.S.C. § 271.

141. ANT is entitled to preliminary and permanent injunctions prohibiting Sevea from further making, using, selling, or offering to sell Sevea's Artificial Nails without permission or license from ANT under 35 U.S.C. § 283.

142. ANT is entitled to a full accounting in respect to all gains, profits, and advantages derived by Sevea through their infringing activities, and a full and complete accounting in respect to its compliance with the Court's preliminary and permanent injunctions.

143. ANT is entitled to disgorgement of Sevea's profits resulting from its infringing activities as damages under 35 U.S.C. § 284.

144. Sevea's continued manufacture, use, offers to sell, and sale of Sevea's Artificial Nails are deliberate and constitute a willful infringement of the '234 patent. ANT, therefore, is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all issues raised in this Verified Complaint.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs prays for a judgment in its favor and against Defendants as follows:

1. Judgment in favor of Plaintiffs and against Defendants on the causes of action set forth above;
2. Injunctive relief necessary and proper for the Court to grant Plaintiffs the relief sought herein;
3. Declaratory relief necessary and proper for the Court to grant Plaintiffs the relief sought herein;

4. For three times Defendant's profits or Plaintiff's damages, whichever is greater, arising from Defendant's unlawful activities pursuant to 15 U.S.C. § 1117(a) and 35 U.S.C. § 284;

5. For punitive damages to the fullest extent permitted by law and equity, and as required in the interests of justice;

6. For prejudgment and post-judgment interest as provided by law;

7. For costs of suit and reasonable attorneys' fees as provided by law; and,

8. For such other and further relief as this Court deems just and equitable.

DATED this 25th day of July, 2006.

Respectfully submitted,

/s/ Robert S. Fox

Brent E. Johnson

Jennifer L. Lange

Robert S. Fox

HOLLAND & HART LLP

60 E. South Temple, Suite 2000

Salt Lake City, Utah 84111-1031

*Attorneys for Plaintiff*

Plaintiff's Address:

c/o Holland & Hart LLP  
60 E. South Temple, Suite 2000  
Salt Lake City, UT 84111

## VERIFICATION

I, Justin Williams, having authority to act on behalf of Artificial Nail Technologies, Inc., hereby affirm that I have reviewed the foregoing Verified Complaint, and verify the factual allegations set forth therein are true and correct.

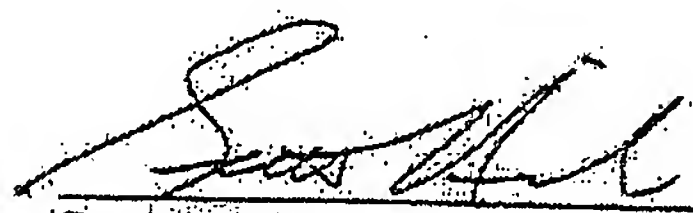
DATED this 25 day of July, 2006.

  
Justin Williams

VERIFICATION

I, Scott Nielson, having authority to act on behalf of True Fit Nails, LLC., hereby affirm that I have reviewed the foregoing Verified Complaint, and verify the factual allegations set forth therein are true and correct.

DATED this 22<sup>nd</sup> day of July, 2006.

  
\_\_\_\_\_  
Scott Nielson

## TABLE OF EXHIBITS

Exhibit A	Photocopy of ANT's advertising brochure demonstrating use of its mark ACTIVNAL
Exhibit B	Photocopy of Sevea's advertising brochure demonstrating Sevea's unauthorized use of ANT's mark ACTIVNAL
Exhibit C	U.S. Patent No. 6,196,234 entitled "Precision Fit Fingernails"
Exhibit D	Photocopy of Sevea's advertising brochure demonstrating Sevea's infringement on U.S. Patent No. 6,196,234.
Exhibit E	Non-Disclosure Agreement of Gifford
Exhibit F	Non Disclosure Agreements of Flowering Scents, LLC, Macris, and McNally
Exhibit G	Asset Contribution Agreement
Exhibit H	Copy of email from Sevea's counsel to Plaintiff's counsel dated April 17, 2006
Exhibit I	Copy of letter from Sevea's counsel to Plaintiff's counsel dated June 20, 2006
Exhibit J	Copy of ANT's letter to Sevea dated July 21, 2006



EXHIBIT "A"

technology comes through... *brilliantly*

ACTIVIA





*The ActivNāl™ process revolutionizes the nail enhancement industry by eliminating the inherent problems with Acrylics.*

ActivNāl was developed in response to the growing concerns and health risks associated with Acrylic nails. The ActivNāl process incorporates the latest technology and materials, creating a custom-fit nail enhancement that is removable, replaceable and precisely fit to your nail. ActivNāl offers the same thickness and look of the natural fingernail. The product is 100% non-toxic and safe to wear. Customers also have a natural looking nail that is much thinner and more durable than any other artificial nail product on the market today.

In essence, your clients will enjoy a safe alternative to Acrylics in addition to a more natural looking, durable nail. Best of all, the process is easy, affordable, and completely customized for each client.

*something I can work with*



EXHIBIT "B"

*ActivNāls are available in  
4 lengths and  
2 shapes.*

**Sport Square • Sport Oval**

Sport length is 3mm beyond the end of your natural nail.



**Active Square • Active Oval**

Active length is 4mm beyond the end of your natural nail.



**Fashion Square • Fashion Oval**

Fashion length is 6mm beyond the end of your natural nail.



**Glamour Square • Glamour Oval**

Glamour length is 8mm beyond the end of your natural nail



ActivNāl is also available in a non French option so you may polish your beautiful nails with a color that is perfect for you. ActivNāls are easily filed and finished to your desired shape and length. Once your natural nails are scanned into our computer database, you can own one or more styles.

*Sevea*  
INTERNATIONAL

*Simply Perfect*

[www.seveainternational.com](http://www.seveainternational.com)

Sevea International Corporation is a U.S. company with offices in the U.S. and internationally.

Sevea International Corporation

10935 E. Lake Boulevard, Suite 100

Greenwood Village, CO 80111

Phone: 303.751.1111 Fax: 303.751.1112

1-800-974-0002

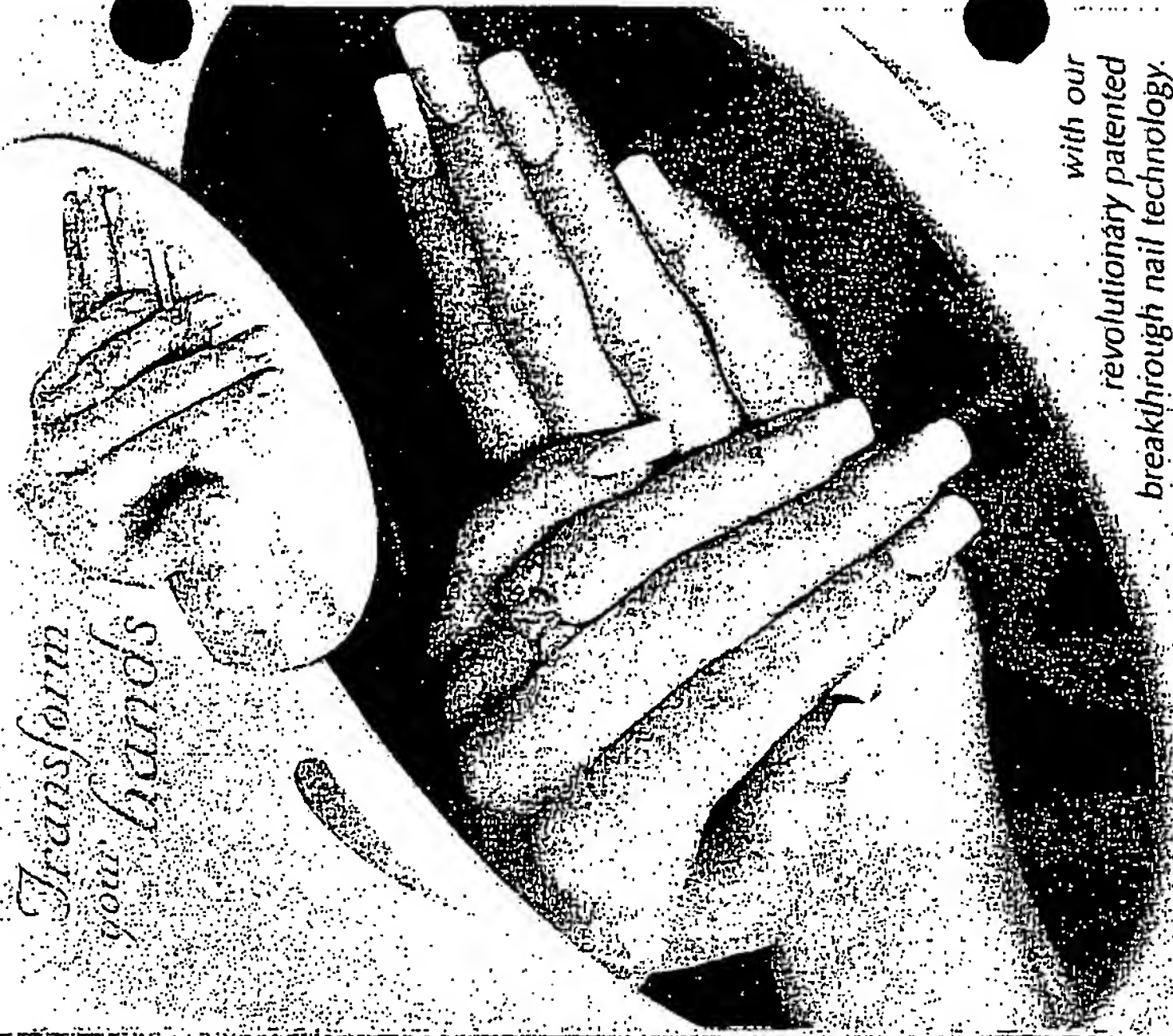
[www.seveainternational.com](http://www.seveainternational.com)

ACTIVNĀLS  
by

*Sevea*  
INTERNATIONAL

*Simply Perfect*

*Transform  
your hands*



*with our  
revolutionary patented  
breakthrough nail technology.*

EXHIBIT "C"



US006196234B1

(12) **United States Patent**  
Gifford

(10) Patent No.: **US 6,196,234 B1**  
(45) Date of Patent: **Mar. 6, 2001**

(54) **PRECISION FIT FINGERNAILS**

(75) Inventor: **Craig P. Gifford, West Jordan, UT (US)**

(73) Assignee: **Ova Nail Products, Inc., West Valley City, UT (US)**

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/371,680**

(22) Filed: **Aug. 10, 1999**

**Related U.S. Application Data**

(60) Division of application No. 08/868,264, filed on Jun. 3, 1997, which is a continuation-in-part of application No. 08/857,793, filed on May 16, 1997, now abandoned.

(51) Int. Cl.<sup>7</sup> ..... **A45D 29/00; A45D 28/18**

(52) U.S. Cl. .... **132/73; 132/73.5; 132/285**

(58) Field of Search ..... **132/73, 73.5, 285; 156/242, 152, 245, 247**

(56) **References Cited**

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\* cited by examiner

*Primary Examiner*—John J. Wilson

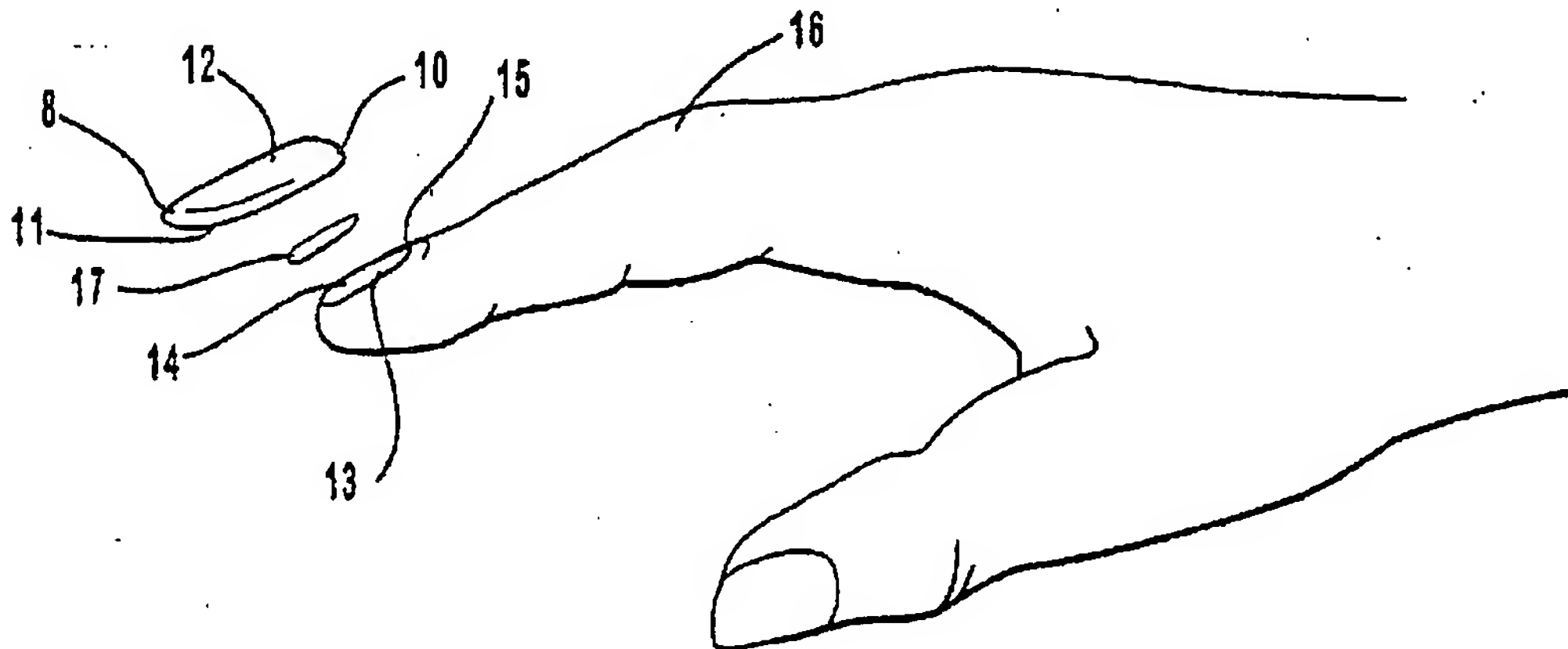
*Assistant Examiner*—Robyn Kieu Doan

(74) *Attorney, Agent, or Firm*—Workman, Nydegger & Seeley

(57) **ABSTRACT**

An artificial fingernail includes a fingernail body having an inner face extending from a tail end to an opposing tip end. At least a portion of the inner face of the fingernail body has a configuration substantially identical in complement to the exposed top surface of a specific real fingernail. As a result, the inner surface of the fingernail body can be selectively secured in a precision fit on the real fingernail so as to substantially cover all of the exposed top surface of the real fingernail. The fingernail body is integrally molded as a discrete unit comprised of an acetone resistant thermoplastic material.

**23 Claims, 8 Drawing Sheets**





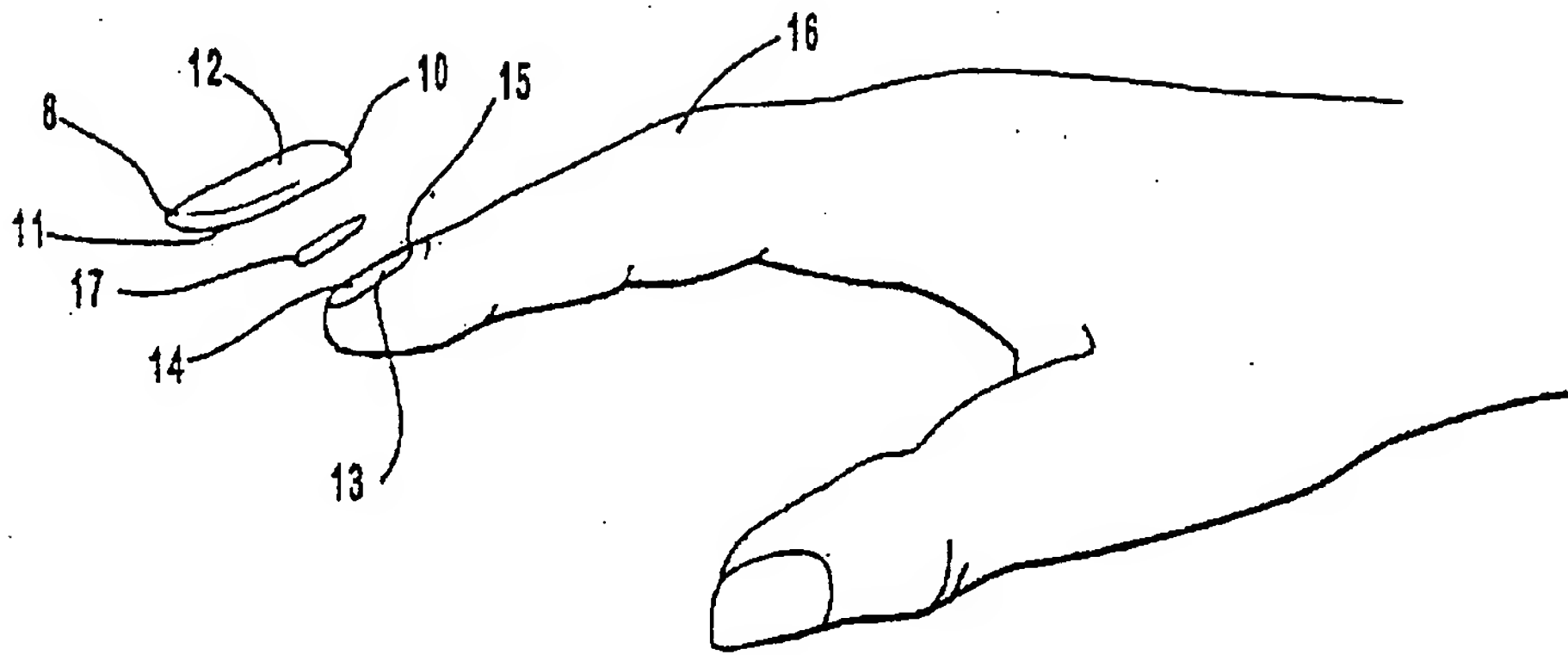


FIG. 1

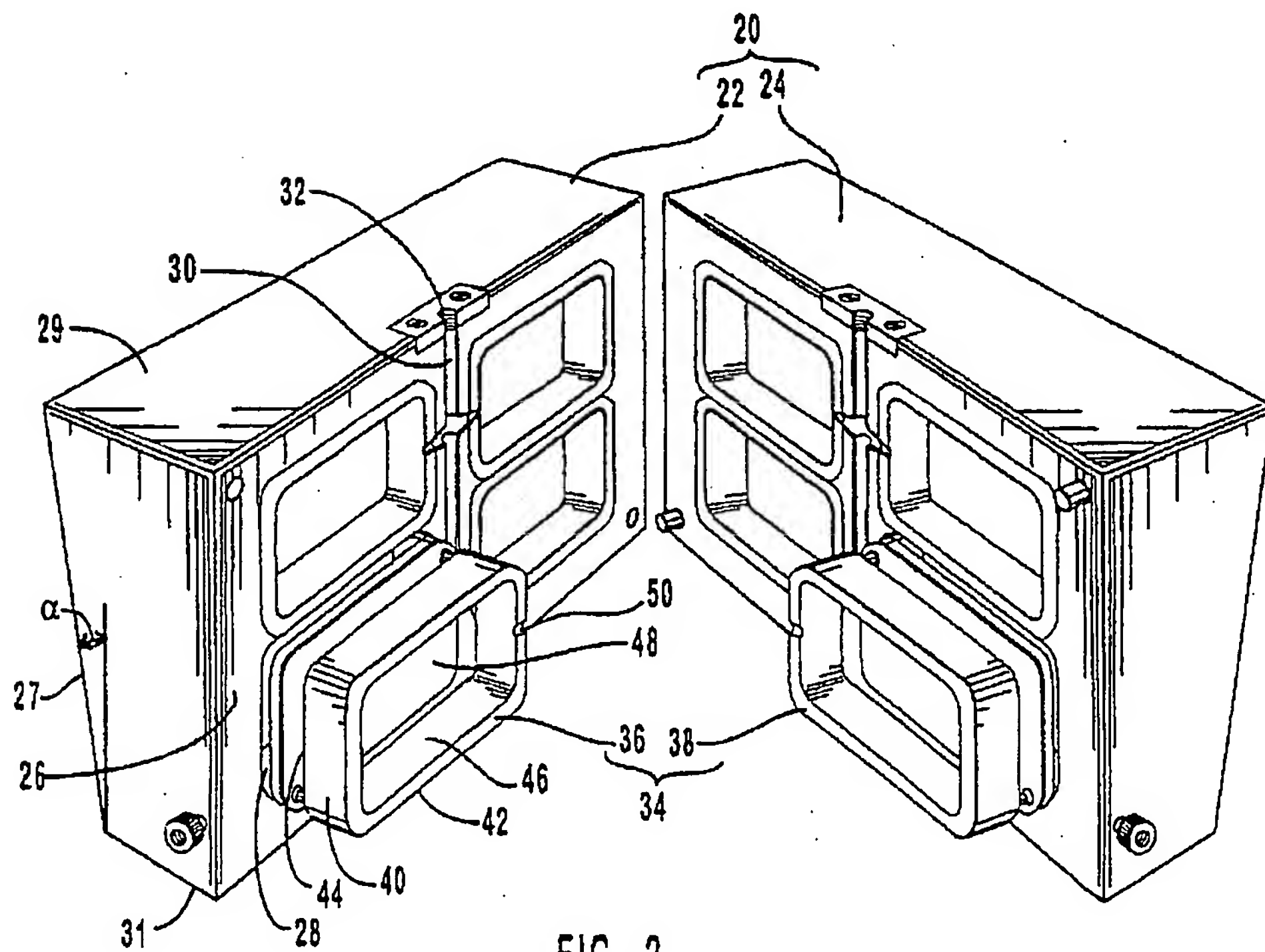


FIG. 2



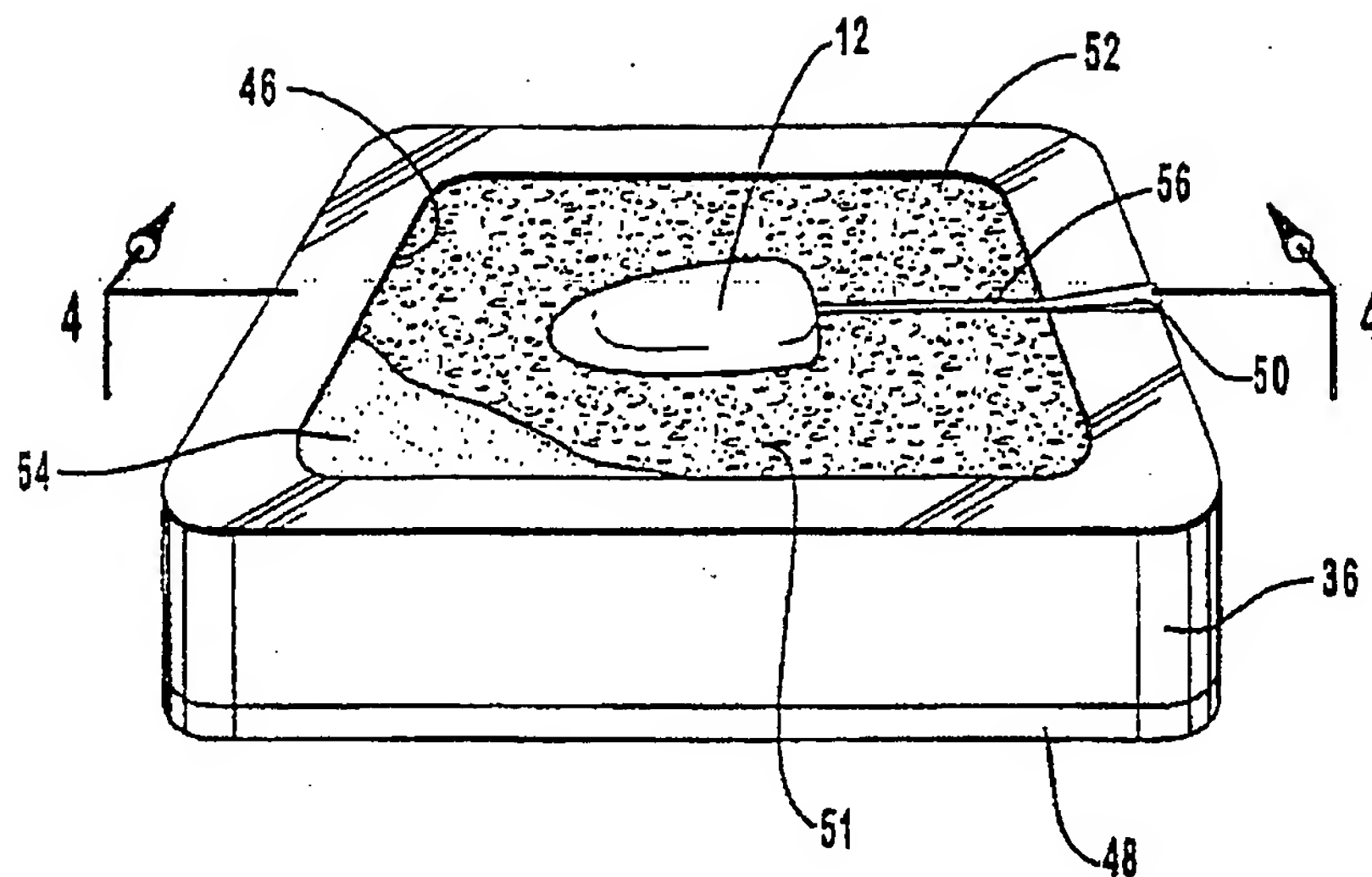


FIG. 3

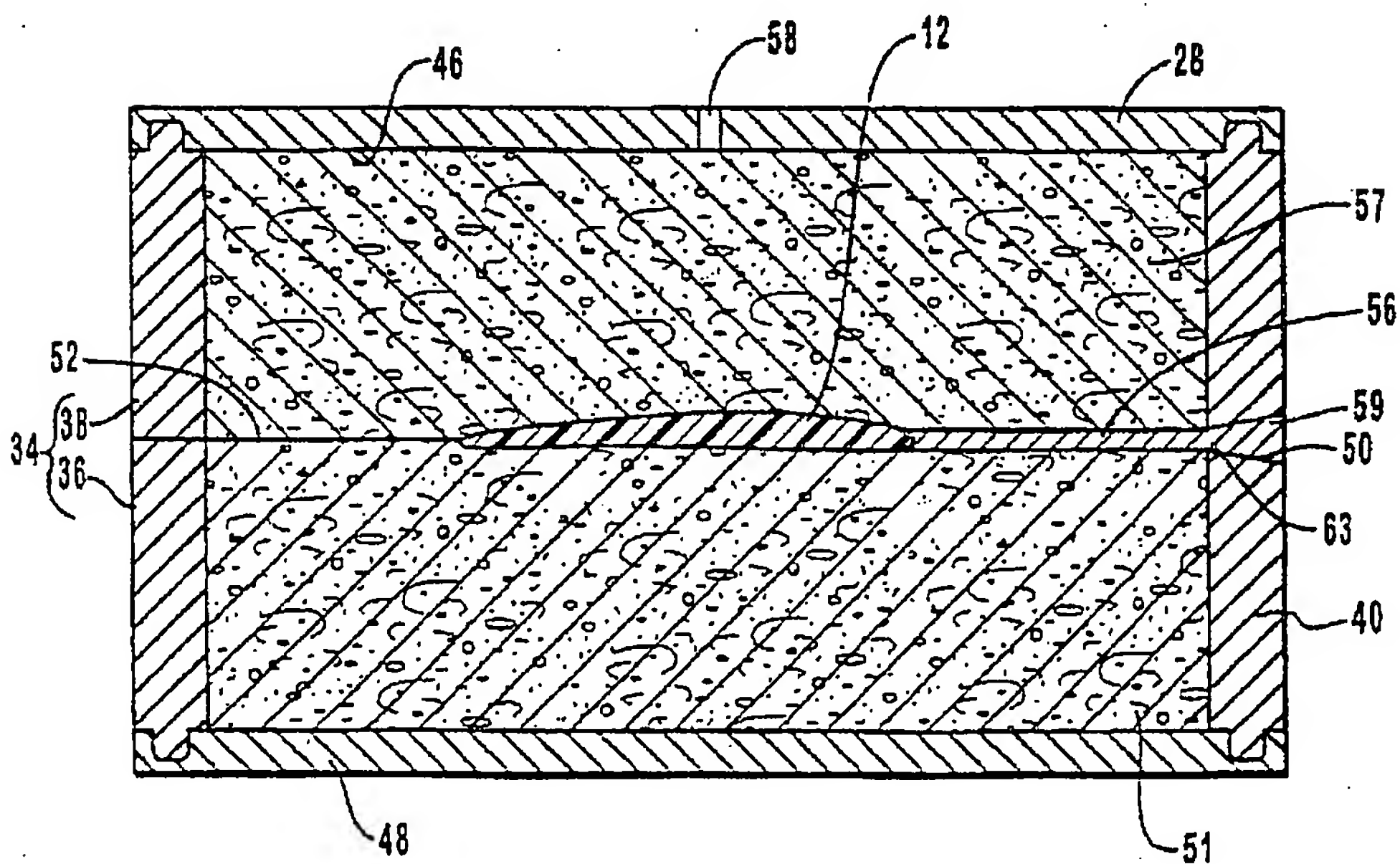


FIG. 4

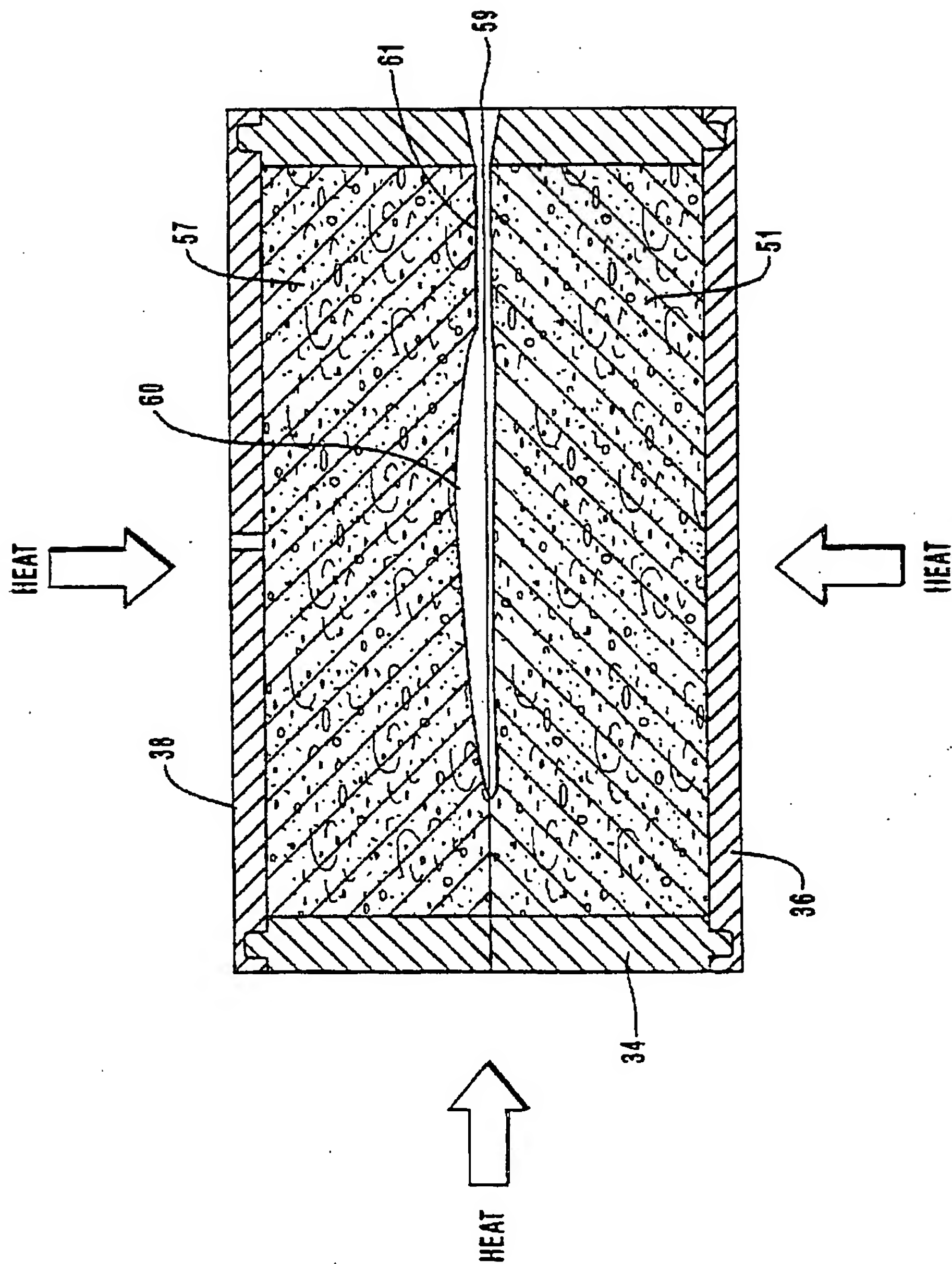
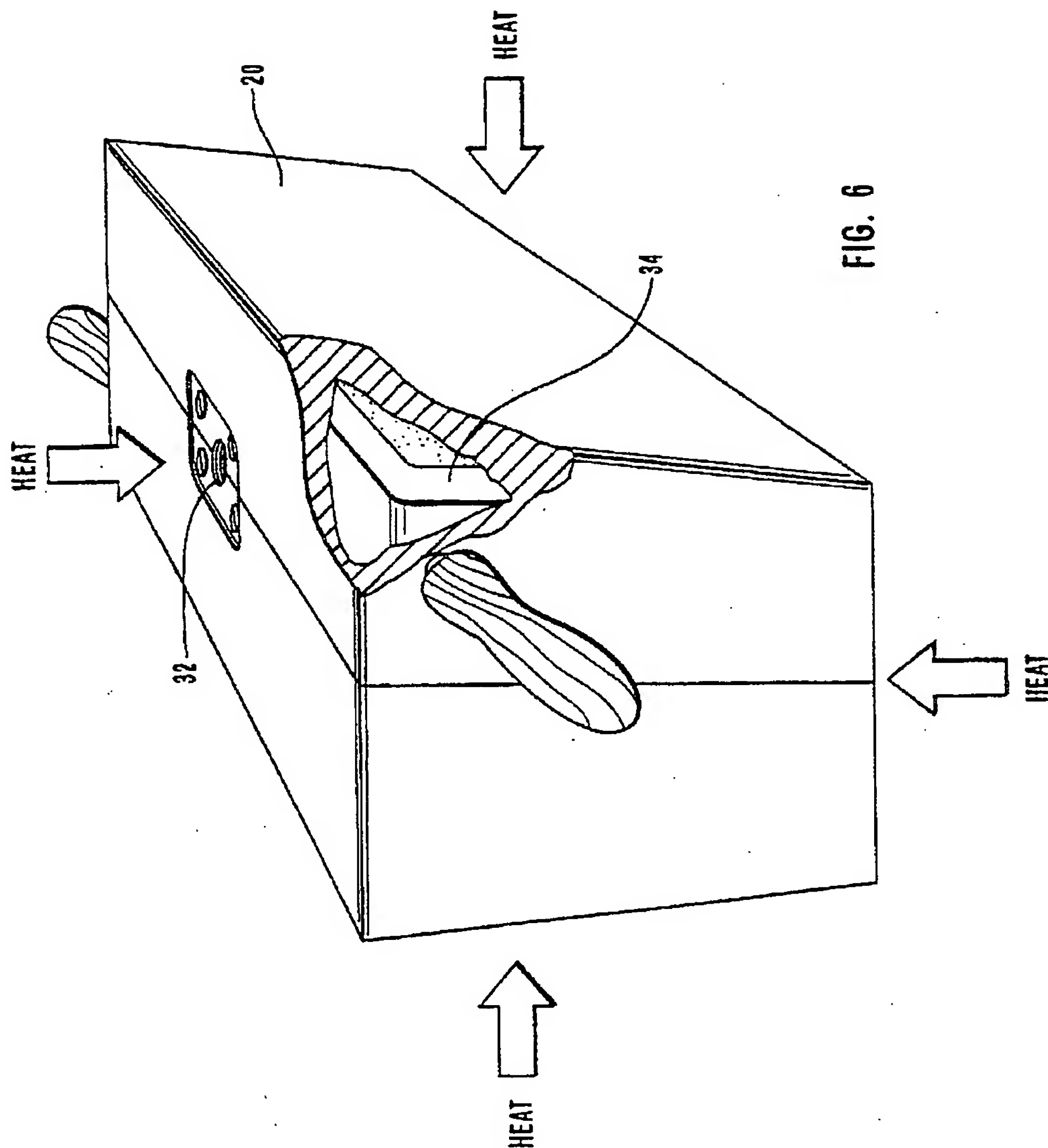


FIG. 5



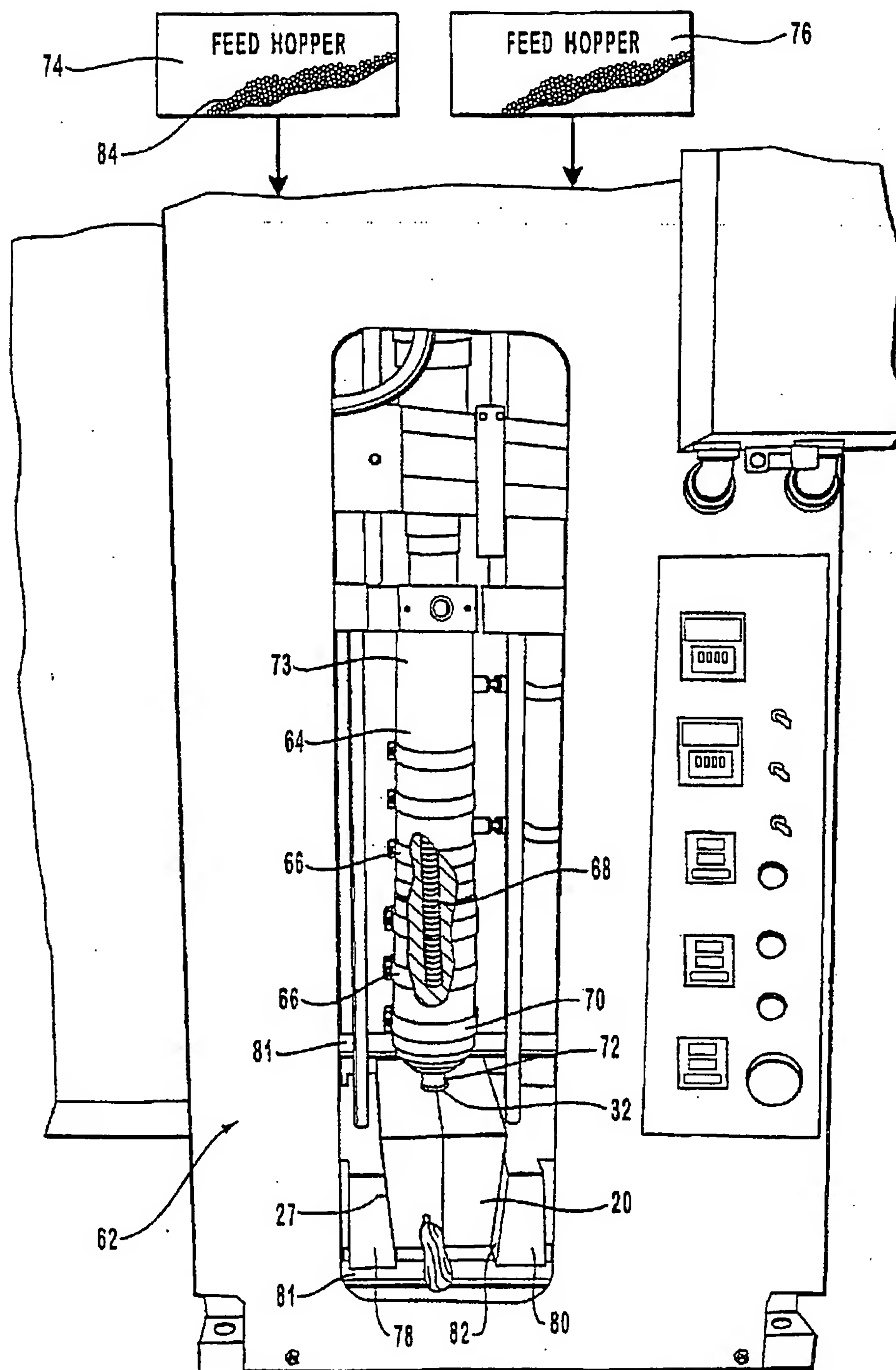
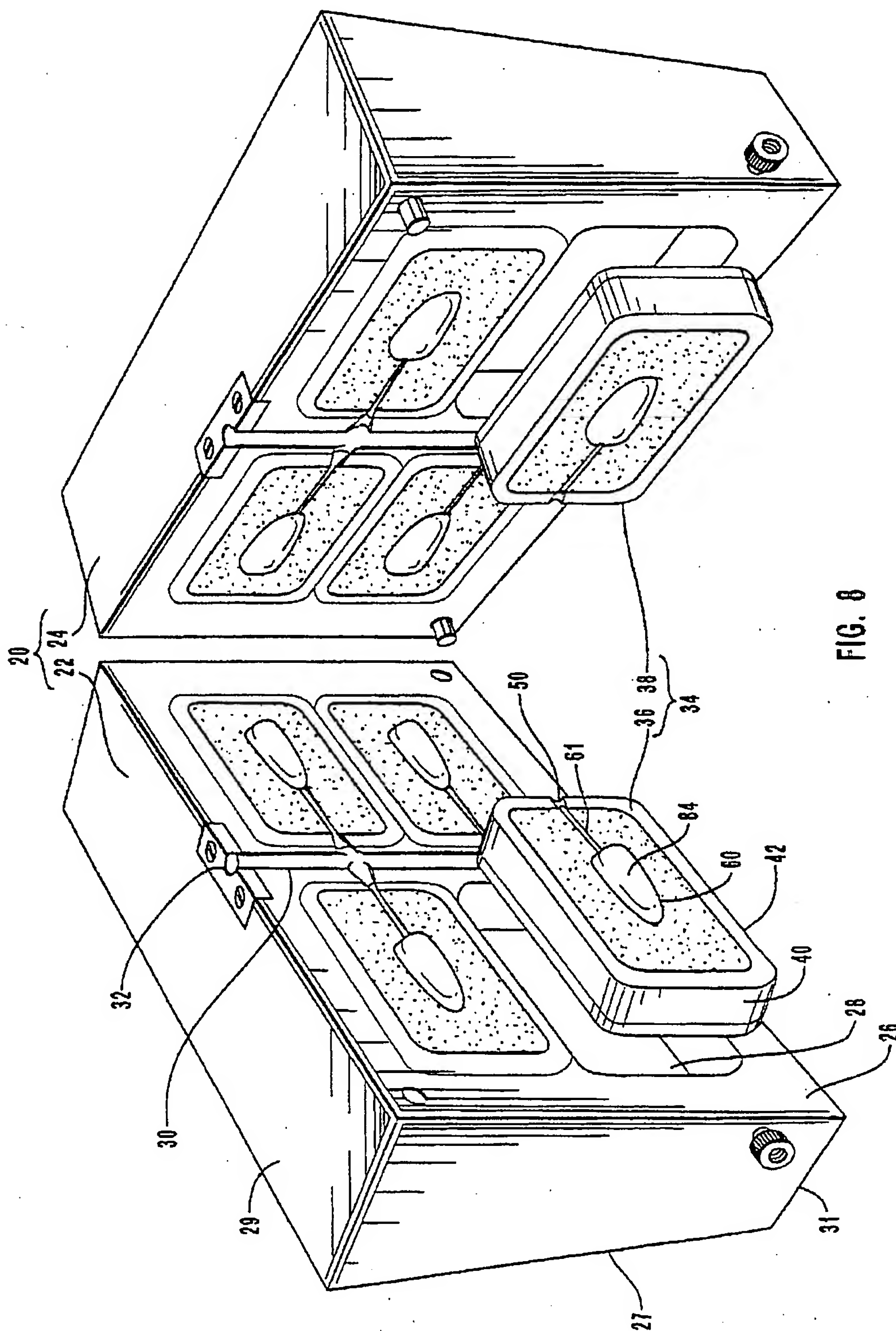


FIG. 7



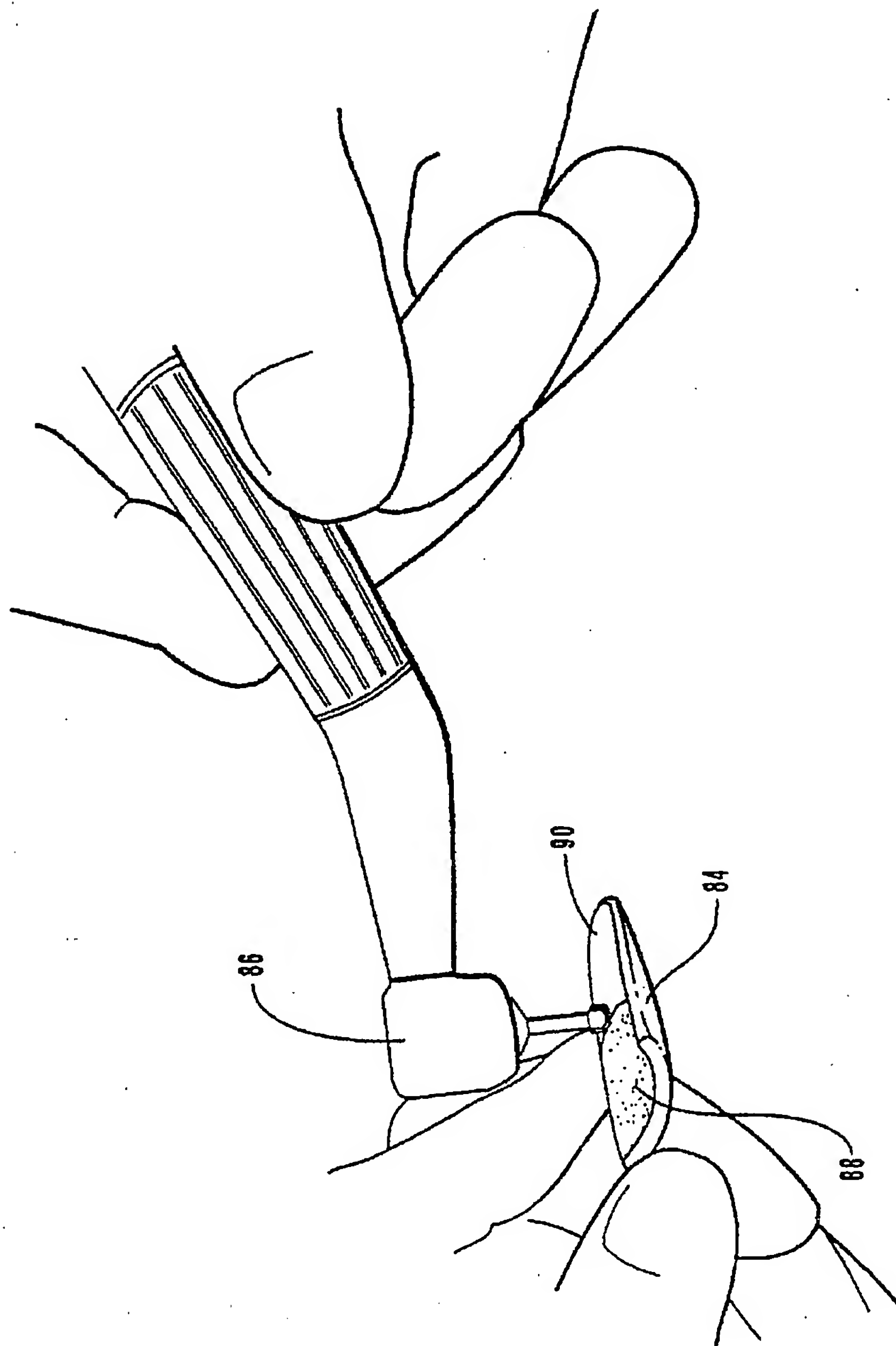


FIG. 9

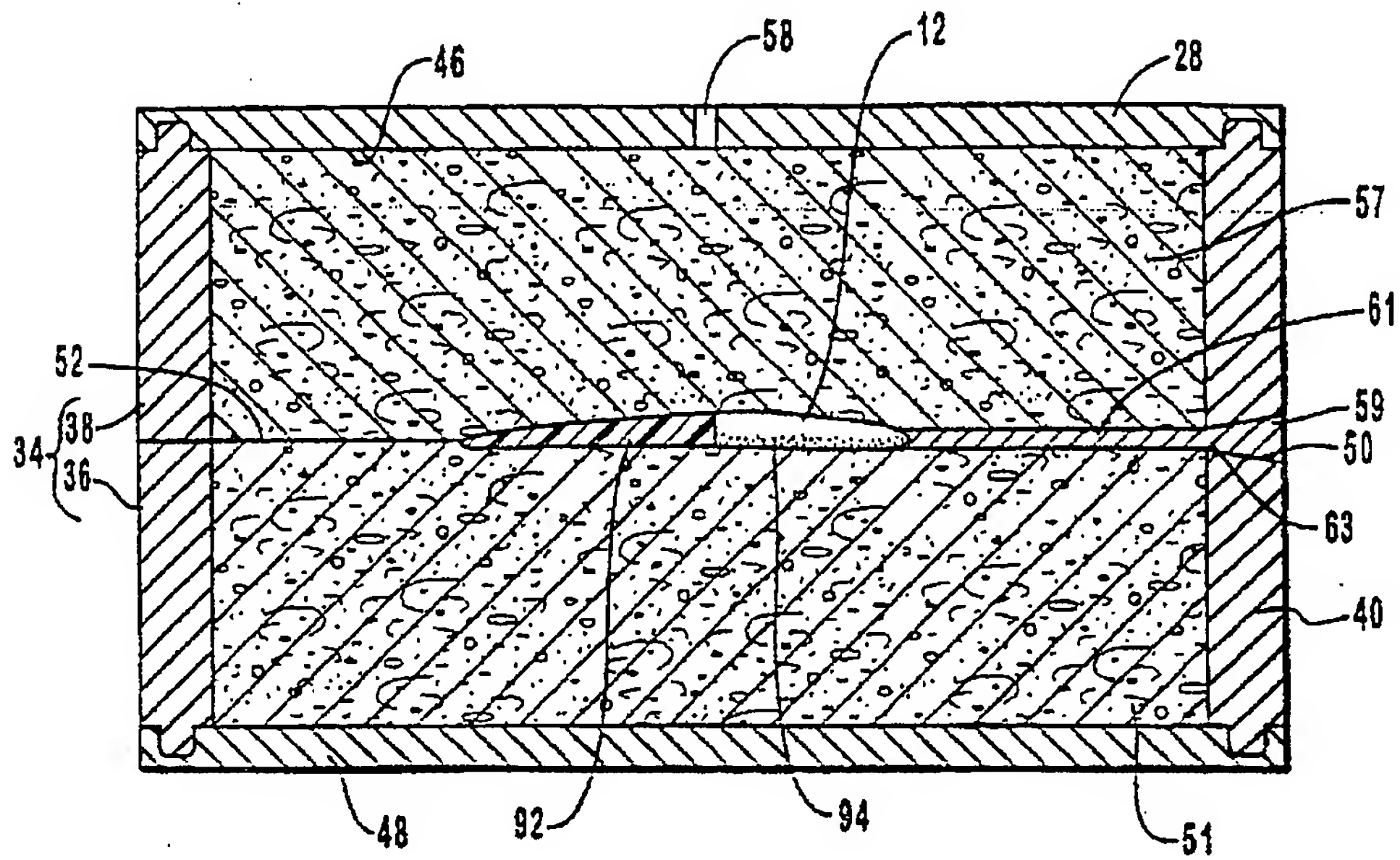


FIG. 10

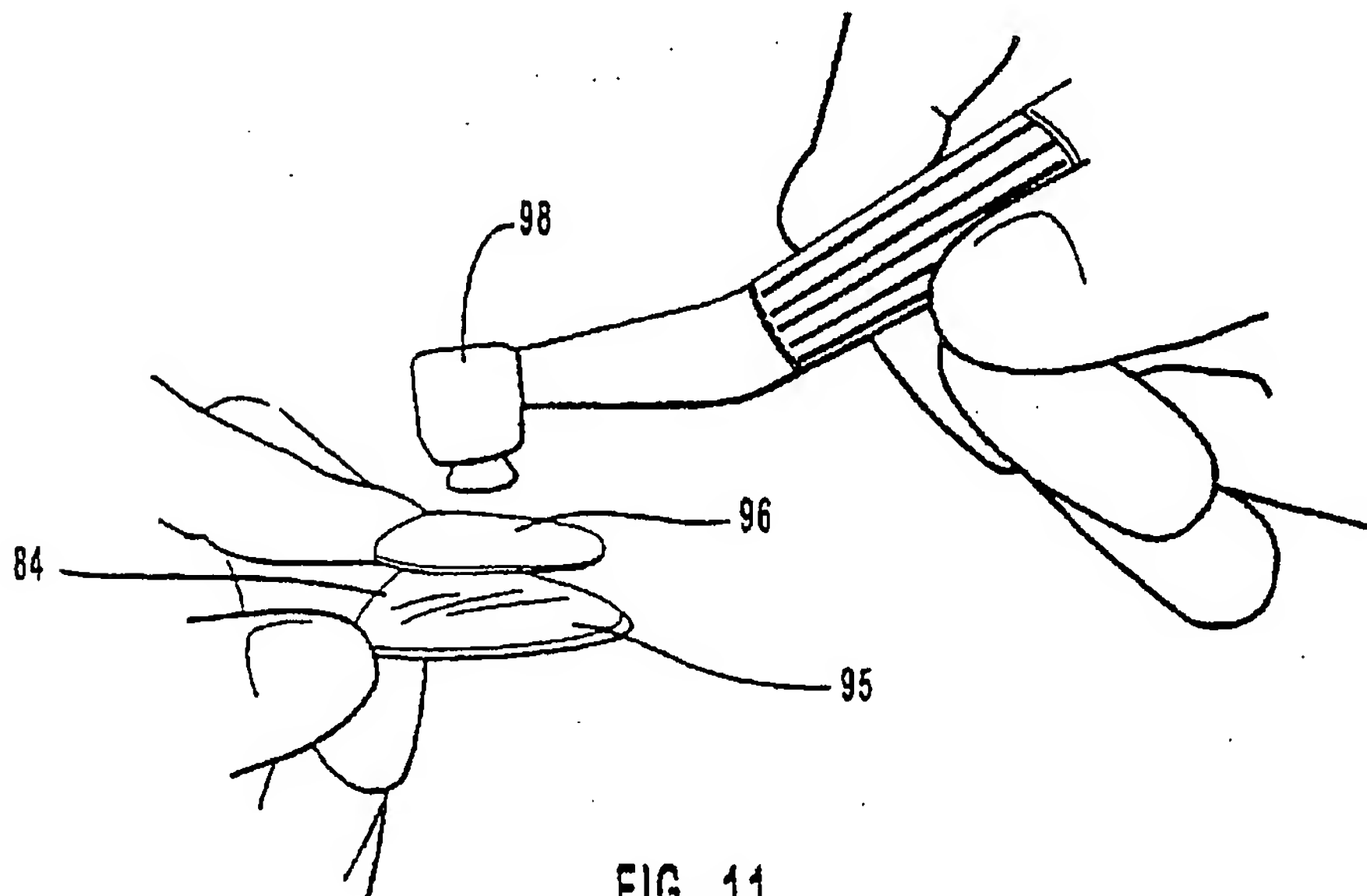


FIG. 11



## PRECISION FIT FINGERNAILS RELATED APPLICATIONS

This application is a divisional of U.S. patent application Ser. No. 08/868,264, filed Jun. 3, 1997 in the name of Craig P. Gifford, D.D.S., for Method for Manufacturing Precision Fit Fingernails which is a continuation-in-part of U.S. patent application Ser. No. 08/857,793 filed May 16, 1997, abandoned, in the name of Craig P. Gifford, D.D.S., for Method for Manufacturing Thermoplastic Dental Prosthesis, which for purpose of disclosure are incorporated herein by specific reference.

### BACKGROUND OF THE INVENTION

#### 1. The Field of the Invention

The present invention relates to artificial fingernails and, more specifically, precision fit artificial fingernails.

#### 2. The Relevant Technology

Artificial fingernails typically comprise thin, elongated, plastic structures having a configuration substantially similar to a real fingernail. Through use of an adhesive, the artificial fingernails can be selectively secured to existing fingernails. One of the benefits of artificial fingernails is that they enable a user to selectively have uniform fingernails of a desired thickness, length, and configuration without having to wait for the real fingernails to grow. This is especially useful to those who have weak fingernails that easily crack or break.

There are several different methods for attaching artificial fingernails. In one method, commonly used in fingernail salons, the tail end of an artificial fingernail is attached to the tip of a real finger by an adhesive. A thermoset acrylic is then used to fill in the gap between the cuticle of the finger and the tail end of the artificial fingernail. The acrylic is also used to cover over the artificial fingernail so that a uniform surface extends from the cuticle to the tip of the artificial fingernail. The acrylic overlay is then filed to provide a smooth surface. This process is repeated for each finger. The resulting artificial fingernails can then be painted with a fingernail polish to a desired color.

The above process is time consuming, labor intensive, and requires significant skill so that the resulting artificial fingernails have a uniform and smooth configuration. As the real fingernails grow, a gap is formed between the cuticle and the acrylic. To maintain uniformity of the fingernails, the gap must be repeatedly filled with acrylic after which the artificial fingernail must again be filed smooth and polish reapplied.

Since the fingers cannot breath through the acrylic, it is recommended that the artificial fingernails be removed every couple of weeks to allow the end of fingers to breath. Once the artificial fingernails are removed, however, the entire process must again be repeated. Due to the time and cost of reapplying the artificial fingernails, people will typically leave them on longer than is recommended. Extended wear can be harmful to the fingers and facilitate the growth of nail fungus.

In a second process for attaching artificial fingernails, sets of artificial fingernails are purchased that are designed to completely cover the real fingernails. This configuration avoids the step of having to backfill with an acrylic. However, since human fingers come in an unlimited range of sizes and shapes, it is impractical, if not impossible, to manufacture sets of artificial fingernails that will precisely fit all people. Accordingly, such artificial fingernails are manufactured in standard sets by size and length.

For attachment, each artificial fingernail is first manually trimmed so as to snugly fit around the cuticle of a corresponding finger. The artificial fingernails are also trimmed to a desired length or shape. This process must be repeated for each of the ten fingers. The artificial fingernails are then attached by simply applying an adhesive between the artificial fingernail and the real fingernail. Once attached, each of the artificial fingernails can be painted to a desired color.

Although simpler, this process also has its shortcomings. For example, although the perimeter of the artificial fingernail can be trimmed to fit around the cuticle of the fingernail, artificial fingernails typically have a poor fit between the inside surface of the artificial fingernail and the top surface of the actual fingernail. This is because the real fingernails of each person have a unique arch and a unique surface texture with small ridges or bumps. In contrast, the inside surface of artificial fingernails are smooth having a standard arch configuration. This poor fit between the artificial fingernails and the real fingernails can result in a poor presentation or look of the attached artificial fingernails and can significantly reduce the ability for the adhesive to secure the artificial fingernails to the real fingernails.

Furthermore, should an artificial fingernail crack or break, the process must be repeated for that fingernail. Since artificial fingernails are typically sold in sets, an entire set must be purchased just to replace a single fingernail. Full length artificial fingernails should also be removed every few days to enable the fingers to breath. Removal of the artificial fingernails is typically accomplished by soaking the fingers in acetone. Acetone, however, decomposes both the adhesive and the artificial fingernails. As a result, the artificial fingernails cannot be replaced after they are removed. Rather a new set of artificial fingernails must again be trimmed and fitted using the above process.

### OBJECTS AND BRIEF SUMMARY OF THE INVENTION

Accordingly, it is an object of the present invention to provide improved artificial fingernails and methods for manufacture.

Another object of the present invention is to provide improved artificial fingernails that have a precision fit both around the cuticle and on the surface of a real fingernail of an intended user.

Yet another object of the present invention is to provide improved precision fit artificial fingernails that are relatively inexpensive.

Still another object of the present invention is to provide improved precision fit artificial fingernails that do not need to be painted.

Another object of the present invention is to provide improved precision fit artificial fingernails that can be easily and quickly attached without assistance.

Finally, another object of the present invention is to provide precision fit artificial fingernails that can be repeatedly removed and reapplied.

To achieve the foregoing objectives, and in accordance with the invention as embodied and broadly described herein, precision fit artificial fingernails are provided. One method for manufacturing such fingernails comprises a first step of obtaining a model of an artificial fingernail that has a precise fit. This can be accomplished by first trimming a conventional plastic artificial fingernail so as to fit around the cuticle of an intended user. The inside surface of the artificial fingernail model is next fitted by applying a ther-



moset acrylic to the portion of the inside surface of the model that will overlie a corresponding real fingernail. The model is then pressed against the top surface of real fingernail such that as the acrylic hardens, the acrylic has the identical configuration of the top surface of the real fingernail. Alternatively, the artificial fingernail model can be sculpted out of wax or other materials.

Once the model is formed, the model is encased by an investment material within the flask. The investment material typically comprises cementitious mixtures or thermoset plastics. A sprue is positioned so as to extend from the model to the exterior of the flask. Once the investment material has hardened, the flask can be separated to remove the model and sprue from the investment material. Removal of the model leaves a negative cast of the desired artificial fingernail. Removal of the sprue leaves a passageway extending from the negative cast to the exterior.

With the flask reassembled, the flask is positioned within the cavity of a die. The die has a fill channel that extends from the passageway in the flask to the exterior of the die. The die is subsequently coupled with a reciprocating screw injector so that the nozzle of the injector is lined up with the fill channel of the die. A plastic material, preferably an acetone resistant thermoplastic material, is then injected from the injector into the fill channel of the die so as to fill the negative cast. Once the negative cast is filled, the die is separated from the injector and the flask removed therefrom. In turn, the artificial fingernail formed within the negative cast is separated from the investment material.

To help secure the artificial fingernail to the real fingernail, binding pockets are formed on a surface of the artificial fingernail that will overlie the real fingernail. Conventional adhesives can then be used to attach the artificial fingernail to the real fingernail.

The resulting artificial fingernails have a number of advantages over conventional artificial fingernails. For example, the finished artificial fingernails of the present invention are attached having a precise fit. That is, the artificial fingernails do not have to be trimmed or otherwise fitted prior to attachment. Furthermore, using the inventive process, a plurality of sets of artificial fingernails can be simultaneously manufactured. Accordingly, should one crack or break, it would be easy to replace the artificial fingernail since no trimming or fitting is required. Where the artificial fingernail is formed from an acetone resistant material, the fingernail can be repeatedly removed and reapplied. This is in sharp contrast to conventional fingernails which have a single use life. Finally, the inventive fingernails can be formed from a plastic material having a desired color. In this case, the step of having to paint the artificial fingernail with a nail polish is eliminated. Likewise, since the fingernail is the same color all the way through, the color is not removed as a result of scratching or chipping.

#### BRIEF DESCRIPTION OF THE DRAWINGS

In order that the manner in which the above-recited and other advantages and objects of the invention are obtained, a more particular description of the invention briefly described above will be rendered by reference to specific embodiments thereof which are illustrated in the appended drawings. Understanding that these drawings depict only typical embodiments of the invention and are not therefore to be considered to be limiting of its scope, the invention will be described and explained with additional specificity and detail through the use of the accompanying drawings in which:

FIG. 1 is a perspective view of a model of an artificial fingernail over a finger having a real fingernail;

FIG. 2 is a perspective view of a die mold enclosing a plurality of flasks;

FIG. 3 is a perspective view of the model in FIG. 1 being partially enclosed by an investment material within a flask of FIG. 2;

FIG. 4 is a cross-sectional side view of the model in FIG. 3 being enclosed by an investment material within a flask;

FIG. 5 is a cross-sectional side view of the flask in FIG. 4 having the model removed therefrom;

FIG. 6 is a partially cut away perspective view of the flask of FIG. 5 being positioned within the die of FIG. 2 and heated;

FIG. 7 is a perspective view of the die from FIG. 6 being positioned within a reciprocating screw injector;

FIG. 8 is a perspective view of the die in FIG. 7 being opened after a plastic material has been injected into the die to form artificial fingernails;

FIG. 9 is perspective view of the artificial fingernail of FIG. 8 having binding pockets formed thereon;

FIG. 10 is a cross-sectional side view of the flask shown in FIG. 4, having a portion of the artificial fingernail from FIG. 8 disposed therein; and

FIG. 11 is a perspective view of the artificial fingernail from FIG. 8 having a colored film layer ultrasonically welded thereto.

#### DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

The present invention relates to novel methods for manufacturing artificial fingernails. The first step in the method is forming a model of a desired artificial fingernail. Referring to FIG. 1, a model 12 of an artificial fingernail is depicted. Model 12 has a tip end 8, a tail end 10, and an inside surface 11 that extends therebetween. In one embodiment, model 12 comprises a conventional plastic artificial fingernail that is selectively configured so as to precisely fit on real fingernail 14 of finger 16. Real fingernail 14 has a top surface 13 partially bounded by a cuticle 15. The fitting process typically comprises manually trimming tail end 10 of model 12 so as to snugly fit against cuticle 15. Tip end 8 of model 12 is also trimmed to a desired length and shape.

Next, model 12 is fitted to complementary mate with top surface 13 of real fingernail 14. This is accomplished by applying a layer of modeling agent 17 to the portion of the inside surface 11 of model 12 that will overlie real fingernail 14. Preferred modeling agents 17 are thermoset resin, such as an acrylic. Alternatively, modeling agent 17 can comprise wax, clay, or other substrates that can be shaped into a form stable configuration. When acrylic is used, top surface 13 of real fingernail 14 is covered with a petroleum based jelly or other releasing agent. Model 12 having the acrylic thereon is then pressed against top surface 13 of real fingernail 14.

To prevent the acrylic from adhering to real fingernail 14, model 12 can be periodically removed and reapplied. The acrylic that squeezes out from under model 12 should be either wiped off while still wet or sanded off after the acrylic has hardened. Once the acrylic has become form stable, model 12 is placed in hot water for final setting of the acrylic. Model 12 can then subsequently be attached by a light spray adhesive to insure that it properly fits and is in uniform alignment.

In alternative embodiments, model 12 can be completely sculpted from wax or other plastic materials. The important

5

aspect is that mold 12 be formed into a configuration that is substantially identical to the desired configuration for the artificial fingernail to be manufactured.

Depicted in FIG. 2 is a die 20 comprising a first die half 22 and an opposing second die half 24. Die 20 is preferably made of a high strength metal and has a substantially V-shaped configuration. First die half 22 has an inside face 26, an outside face 27, a top surface 29, and a bottom surface 31. Outside face 27 radially slopes outward from bottom surface 31 to top surface 29 at an angle  $\alpha$  in a range between about 5 degrees to about 25 degrees with about 10 degrees to about 20 degrees being more preferred. A plurality of cavities 28 are formed on inside face 26. Each cavity 28 is interconnected by a narrow fill channel 30 which communicates with the exterior through a fill hole 32. Second die half 24 is the mirror image of first die half 22. Accordingly, like structural elements between die halves 22 and 24 are identified by like reference characters.

Removably disposed within each cavity 28 is a flask 34. As with die 20, each flask 28 comprises a first flask half 36 and an opposing second flask half 38. First flask half 36 comprises a sidewall 40 encircling a chamber 46. Sidewall 40 extends from an open first end 42 to an opposing open second end 44. A groove 50 is positioned at first end 42 and communicates with fill channel 30 when first flask half 36 is positioned within cavity 28. Second end 44 is selectively closed by a cap 48. Second flask half 38 is the mirror image of first flask half 36. Accordingly, like structural elements between flask halves 36 and 38 are identified by like reference characters.

When die halves 22 and 24 are coupled together, first ends 42 of flask halves 36 and 38 are complementary mated so that chambers 46 are enclosed. Grooves 50 are likewise aligned to form an aperture that extends from chamber 46 to fill channel 30. In turn, fill channel 30 communicates with the exterior through fill hole 32.

Once formed, model 12 is positioned within first flask half 36, as depicted in FIG. 3. Chamber 46 is filled with a first layer 51 of an investment material. First layer 51 has an exposed surface 52 on which model 12 is positioned. The investment material includes conventional cementitious mixtures which can be poured in a liquid state and then set to harden. Preferred investment materials include dental stone, plaster, die stone, buff stones and the like. Alternative investment materials include thermoset plastics such as epoxies. Once the investment material has sufficiently hardened, a separating agent 54 is applied on exposed surface 52. Preferred separating agents include silicone sprays and other conventional mold releasing agents.

Next, a sprue 56 is positioned so as to extend from model 12 to groove 50 in flask half 36. Sprue 56 can be formed from wax or any of the other materials used in conventional lost wax processes. Sprue 56 can also be made from thermoset plastics or can comprise a narrow wire that is secured to model 12.

As depicted in FIG. 4, once sprue 56 is positioned, flask halves 36 and 38 are coupled together so as to completely enclose model 12 between first layer 51 and a second layer 57 of investment material. Chamber 46 of second flask half 38 can be filled with second layer 57 of investment material in a variety of different ways. For example, second layer 57 can be positioned within chamber 46 prior to coupling flask halves 36 and 38 together. Alternatively, flask halves 36 and 38 can first be coupled. Next, cap 28 of second flask half 38 is removed to allow filling of the chamber 46 with investment material. As cap 28 is replaced, excess material flows out through a port 58 extending through cap 28.

6

FIG. 4 clearly depicts that aligned grooves 50 form an aperture 59 that extends through sidewall 40 of flask 34. Aperture 59 radially, inwardly constricts to a narrow gate 63. The purpose of gate 63 will be discussed later in greater detail.

Once second layer 57 of investment material has sufficiently hardened, model 12 and sprue 56 are removed. This step can be accomplished in a variety of different ways and is largely dependent upon the materials from which model 12 and sprue 56 are made. For example, where model 12 and sprue 56 are made of wax, the entire flask 34, as depicted in FIG. 5, can be heated, such as in an oven or heated water so as to melt and remove the wax material through aperture 59. The space previously occupied by model 12 forms a negative cast 60 of the desired artificial fingernail. Likewise, the space previously occupied by sprue 56 forms a passageway 61 that extends from negative cast 60 to aperture 59.

In alternative methods for removing model 12 and sprue 56, flask halves 36 and 38 can be separated to allow manual removal of the model 12 and sprue 56. Separated flask halves 36 and 38 can also be heated. Likewise, where applicable, acids or other solvents, such as acetone, can be placed on separated flask halves 36 and 38 for dissolving or otherwise removing model 12 and sprue 56.

Once model 12 and sprue 56 are completely removed, separating agent 54 can be applied across the exposed faces of first and second layers 51 and 57 and within negative cast and passageway 61. Where the investment material comprises a cementitious material, such as dental stone or plaster, negative cast 60 and passageway 61 can be coated with a thermoset material. The thermoset material smooths the surface of the investment material, thereby producing a final product that is easier to remove from the investment material and has a smoother finish. To maintain the precision fit of the resulting artificial fingernails, however, it may be necessary to first slightly enlarge negative cast 60 prior to applying the thermoset material. Flask halves 36 and 38 can then be reassembled, as shown in FIG. 5.

Next, flask 34 is positioned within cavity 28 of die 20 and die halves 22 and 24 are assembled together as depicted in FIG. 6. In this position, fill hole 32 communicates with negative cast 60 through passageway 61 and fill channel 30. For reasons that will be discussed later, in one method for manufacture, die 20 having flask 34 contained therein is heated to a temperature preferably in a range between about 65° C. to about 120° C. with about 75° C. to about 100° C. being preferred. Such heating of die 20 is typically accomplished in an oven.

With die 20 heated, die 20 is coupled to an injection machine 62. As depicted in FIG. 7, one embodiment of injection machine 62 comprises a barrel 64 having a plurality of heating elements 66 attached thereto. Longitudinally disposed within barrel 64 is a reciprocating screw 68. Positioned at a first end 70 of barrel 64 is a nozzle 72. Coupled with second end 73 of barrel 64 is a first hopper 74 and a second hopper 76. Injection machine 62 also includes a pair of clamping shoes 78 and 80. Each clamping shoe has a face 82 that is sloped complementary to outside face 27 of each die half 22 and 24.

Die 20 is wedged between clamping shoes 78 and 80 so that fill hole 32 on die 20 is coupled with nozzle 72. Injection machine 62 preferably comprises a reciprocating screw injector. One preferred reciprocating screw injector is Model #55 of the "Wasp" series of machines available from Mini-Injector Machinery Corporation out of Newbury, Ohio. Conventional industrial strength reciprocating screw injec-



tors can also be used. Injection machine 62 also includes conventional plunger machines. One example of a plunger machine comprises Model #50 of the "Wasp" series of machines available from Mini-Injector Machinery Corporation out of Newbury, Ohio.

Injection machine 62 is used to inject a plastic material, either a thermoset plastic or a thermoplastic material, into negative cast 60. As used in the specification and appended claims, the term "thermoplastic material" means materials that become flowable upon the application of sufficient heat and/or pressure but which set as solids, while maintaining their original chemical composition, upon removal of the applied heat and/or pressure. By way of example and not by limitation, ABS plastics, acetals, acrylics, cellulose, ionomers, nylons, polyethylenes, polycarbonates, and polystyrene are thermoplastic materials. Fillers, such as glass and fibers, can be added to the thermoplastic materials to selectively vary their properties. The present invention also uses USP Class 6 medical grade thermoplastic materials. Medical grade thermoplastic materials include MACROLON®, available from the Bear Corporation; CALIBRI® and ISOPLAST®, available from Dow Corning; and LEXAN®, available from General Electric. Preferably, the present invention uses thermoplastic materials that are resistant to acetone. There are a variety of different types of acetals, nylons, polyethylenes, and polypropylenes that are resistant to acetone. Specific examples include ZYTELL® which is a nylon and DELRIN® acetal resin which is an acetal, both of which are available from Dupont. The thermoplastic materials of the present invention typically have a durometer hardness based on a Shore A scale in a range between about 50 to about 120, with about 70 to about 120 being preferred, and about 80 to about 120 being most preferred.

Some thermoplastic materials absorb moisture. To improve the injection capability of such materials, it is helpful to first dehumidify the materials. This is typically accomplished by heating the thermoplastic material to drive off the moisture. The heating can be done either directly within the hopper or prior to positioning the material within the hopper. For example, select polycarbonates can be dehumidified at a temperature in a range between about 70° C. to about 110° C. for between about 4 hours to about 6 hours.

During manufacture, pellets 84, or some other form of a plastic material, are positioned within first hopper 74. Pellets 84 flow into second end 73 of barrel 64. As screw 68 rotates, pellets 84 are picked up by the flights of screw 68 and fed toward first end 70. This action is similar to a meat grinder. Pellets 84 are heated and melted as they advance through barrel 64. Melting of pellets 84 occurs as a result of heating elements 66 and as a result of the pressure and friction produced by reciprocating screw 68. Pellets 84 of thermoplastic materials are typically heated within barrel 64 to a temperature in a range between about 170° C. to about 500° C. with about 250° C. to about 500° C. being preferred, and about 320° C. to about 450° C. being more preferred. Thermoset materials can usually be heated at lower temperatures. The actual temperature is dependent on the specific plastic material being used. Pellets 84 are typically compressed within barrel 64 at a pressure in a range between about 10,000 psi to about 22,000 psi, with about 13,000 psi to about 22,000 psi being preferred, and about 16,000 psi to about 22,000 psi being more preferred.

When screw 68 has prepared enough melted plastic material, screw 68 stops rotating. Screw 68 is then pushed forward, forcing the melted plastic material out of nozzle 72 and into fill hole 32 of die 20. The melted plastic material

travels within fill channel 30 and passageway 61 of flask 34 so as to fill negative cast 60. Volatiles developed from heating the plastic material and the air trapped within die 20 are expelled through vents (not shown) extending from cavity 28 to the exterior. As previously discussed, die 20 can be heated prior to injecting the plastic material. Heating of die 20 improves the flow of the material when relatively viscous plastic materials are used. Heating of die 20, however, is not necessary.

Clamping shoes 78 and 80 are held in position by a pair of tie rods 81 that span therebetween. Prior to injecting the melted plastic material into die 20, nozzle 72 is pressed against die 20, thereby wedging die 20 in the slot between clamping shoes 78 and 80. As a result of the complementary angled faces, the force applied by nozzle 72 slightly stretches tie rods 81 creating a tension therein that securely clamps die 20 between shoes 78 and 80.

When the melted plastic material is injected into die 20, the pressure force created by the plastic material is amplified by what is termed the "projected area." The projected area corresponds to the area within die 20 that is filled with the thermoplastic material. The resulting injection force is proportional to the pressure of the melted plastic material times the projected area. This injection force attempts to push die halves 22 and 24 apart during injection, which would cause the plastic to "flash" out between die halves 22 and 24.

Countering the injection force is a clamping pressure. In the present case, the clamping pressure results from tie rods 81 holding clamping shoes 78 and 80 tightly against die 20 until the injection is completed. This clamping pressure is measured in tons, which capacity is dependent on the type of machine used. Due to the varying viscosities of the various plastic resins, the actual pressure within die 20 is difficult to calculate. A good rule of thumb is to have 2 tons of clamping pressure for every square inch of mold projected area. For low viscosity materials such as nylon or high melt index polyethylene, at least 3 tons is recommended. Injection machines of the present invention can typically withstand a clamping pressure greater than about 4 tons, with greater than about 6 tons being preferred, and greater than about 8 tons being more preferred.

The use of clamping shoes 78 and 80 in conjunction with tie rods 81 is only one method for producing the required clamping pressure. The benefit of this configuration is that it minimizes the size of the injection machine. In alternative embodiments, rather than clamping shoes 78 and 80 being held in position by fixed ties 81, one or both of the shoes 78 and 80 can be connected to a hydraulic or mechanical piston that selectively clamps die 20 between the shoes and then releases die 20 after the injection is finished.

Gate 63 formed in flask 34, as previously discussed with regard to FIG. 4, narrows the pathway through which the plastic material flows as it travels to negative cast 60. As a result of gate 63 forming a narrow opening, gate 63 is one of the locations at which the plastic material first begins to set. By the material setting at gate 63, the material within negative cast 60 is blocked from flowing back into fill channel 30. Backflow of material out of negative cast 60 can decrease the density and structural integrity of the final product.

One unique benefit of using a thermoplastic material is the quickness in which the configured thermoplastic material sets. That is, the thermoplastic material is sufficiently hard to be removed from within negative cast 60 in a time range from about 2 seconds to about 5 minutes, with about 4 seconds to about 60 seconds being preferred, and about 5

seconds to about 15 seconds being more preferred from the time that negative cast 60 is filled with the thermoplastic material. In one embodiment, water channels can be formed in die 20. Water channels can be used for regulating the temperature of die 20. Typically, the water channels are used to run cold water through die 20 so as to shorten the set time of the plastic material.

Once the plastic material has set, as depicted in FIG. 8, die 20 can be removed from injection machine 62 and separated. In turn, flask 34 can be removed from within die 20 and likewise separated. As shown therein, the plastic material has filled negative cast 60 to form a plastic artificial fingernail 84 having the same configuration as model 12. Artificial fingernail 84 is next separated from the thermoplastic material within passageway 61 and the surrounding investment material. Where the investment material comprises a thermoset plastic, solvents such as acetone or ethylene glycol, depending on the type of thermoset plastic, can be used to soften the thermoset plastic for easy removal of artificial fingernail 84.

Once artificial fingernail 84 is removed, artificial fingernail 84 can be attached with a precision fit to real fingernail 14 by an adhesive such as a cyanoacrylate adhesive. Where artificial fingernail 84 is formed from an acetone resistant plastic, the formation of binding pockets on artificial fingernail 84 helps to secure the adhesive to artificial fingernail 84. FIG. 9 depicts the use of a drill 86 to form binding pockets 88 on an inner surface 90 of artificial fingernail 84. Of course, binding pockets 88 need only be formed on the portion of inner surface 90 that will overlay real fingernail 14. As used in the specification and appended claims, the term "binding pockets" includes recesses, trenches, cuts, slots, pitting, sanding or any other sharp irregularities which enables an adhesive to securely bind to artificial fingernail 84. Binding pockets 88 can be made from a variety of different tools such as small sand blasters, knives, sand paper or the like.

There are a variety of different ways to color artificial fingernail 84. For example, pellets 84 can be translucent so that the artificial fingernails have the appearance of real fingernails when attached. Conventional fingernail polish can then be used to color artificial fingernail 84. Where artificial fingernail 84 is formed from an acetone resistant material, it may be useful to first lightly roughen the surface of artificial fingernail 84 so as to assist the polish in binding thereto. Alternatively, the surface of artificial fingernail 84 could first be coated with an adhesive over which the fingernail polish is subsequently applied.

Alternatively, pellets 84 can be purchased in a variety of different colors and different sheens. For example, pellets 84 could be purchased in a high gloss red so that the resulting artificial fingernail 84 would not need to be painted. Nevertheless, even though artificial fingernail 84 is a defined color, artificial fingernail 84 can still be painted, if desired, to change the color. To selectively vary the color so as to obtain artificial fingernail 84 having a desired color, plastic pellets of a select color or color concentrates, pigments or the like can be positioned within second hopper 76. By varying the rate at which the materials from hoppers 74 and 76 feed into barrel 64 for mixing by screw 68, the final color of the material discharging from nozzle 72 can selectively varied.

Where it is desirable to have artificial fingernail 84 having a two part color, such as in a French manicure, the initially formed artificial fingernail 84, as depicted in FIG. 8, is removed from the investment material. A select portion of

the artificial fingernail is then cut away. The remaining artificial fingernail 92, as depicted in FIG. 10, is then positioned back into negative cast 60. A plastic material of a second color is then injected into negative cast 60. The injected plastic binds with remaining artificial fingernail 92 to produce artificial fingernails having a two part color. In yet another alternative, a coloring agent 94, such as pigment or color concentrate, can be directly positioned within negative cast 60 as shown in FIG. 10. The plastic material combines with the pigment or color concentrate as the plastic material is injected into negative cast 60, thereby forming artificial fingernail 84 of a desired color.

In yet another embodiment, as depicted in FIG. 11, a thin film layer 96 of thermoplastic material having a desired color can be ultrasonically welded over top surface 95 of artificial fingernail 84. Layer 96 can be purchased in bulk rolls in desired colors. Layer 96 is first cut to fit over all or a portion of top surface 95 of artificial fingernail 84. Next, an ultrasonic welder 98, typically operating in a range between about 20 to about 40 kilohertz, is used, ultrasonically weld or fuse layer 96 to top surface 95 of artificial fingernail 84.

Die 20 in FIG. 8 is configured to receive a plurality of flasks 34 so as to illustrate one embodiment in which the inventive method can be used for cost effectively mass producing artificial fingernails. That is, it would be both cheaper and quicker to simultaneously inject the plastic material into four discrete negative casts of a desired artificial fingernail. Alternatively, the inventive process works equally well if die 20 has only a single cavity 28 in which a single flask 34 is positioned. Furthermore, it is also noted that flask 34 is not necessary for the inventive process. Model 12 can be incased in investment material directly within cavity 28 of die 20. Die 20 can then be separated to remove model 12 and sprue 56. The process would then continue as discussed above.

The present invention may be embodied in other specific forms without departing from its spirit or essential characteristics. The described embodiments are to be considered in all respects only as illustrative and not restrictive. The scope of the invention is, therefore, indicated by the appended claims rather than by the foregoing description. All changes which come within the meaning and range of equivalency of the claims are to be embraced within their scope.

What is claimed and desired to be secured by United States Letters Patent is:

1. An artificial fingernail for removable attachment to an exposed top surface of a specific real fingernail, the artificial fingernail comprising a fingernail body having an inner face, at least a portion of the inner face of the fingernail body being specifically formed to have a configuration substantially identical in complement to at least a portion the exposed top surface of the specific real fingernail such that the inner face of the fingernail body can be selectively secured in a precision fit on the real fingernail, the fingernail body being comprised of a thermoplastic material, a binding pocket being formed on the inner face of the fingernail body.
2. An artificial fingernail as recited in claim 1, wherein the fingernail body is comprised of a thermoplastic material that bonds with cyanoacrylate such that cyanoacrylate can independently be used to securely bond the fingernail body to the top surface of the real fingernail.
3. An artificial fingernail as recited in claim 1, wherein the thermoplastic material comprises a polycarbonate.
4. An artificial fingernail as recited in claim 1, wherein the thermoplastic material comprises an acetal resin.
5. An artificial fingernail as recited in claim 1, wherein the thermoplastic material comprises a nylon.

11

6. An artificial fingernail as recited in claim 1, further comprising a filler dispersed within the thermoplastic material.

7. An artificial fingernail as recited in claim 6, wherein the filler comprises fibers.

8. An artificial fingernail as recited in claim 1, further comprising a coloring agent dispersed within the thermoplastic material.

9. An artificial fingernail as recited in claim 1, wherein the thermoplastic material is USP class 6 medical grade.

10. An artificial fingernail as recited in claim 1, wherein thermoplastic material has a durometer hardness in a range between about 50 to about 120 based on a Shore A scale.

11. An artificial fingernail as recited in claim 1, wherein thermoplastic material has a durometer hardness in a range between about 70 to about 120 based on a Shore A scale.

12. An artificial fingernail as recited in claim 1, wherein the thermoplastic material is acetone resistant.

13. An artificial fingernail as recited in claim 1, wherein the fingernail body is integrally molded as a discrete unit having a tip end and an opposing tail end, the tip end being a different color than the tail end.

14. An artificial fingernail as recited in claim 1, further comprising a film layer of thermoplastic material secured over at least a portion of the fingernail body.

15. An artificial fingernail as recited in claim 1, wherein the inner face of the fingernail body is configured to substantially cover all of the exposed top surface of the real fingernail.

16. An artificial fingernail for removable attachment to an exposed top surface of a specific real fingernail, the artificial fingernail comprising a fingernail body having an inner face extending from a tail end to an opposing tip end, at least a portion of the inner face of the fingernail body being specifically formed to have a configuration substantially identical in complement to the exposed top surface of the specific real fingernail such that the inner face of the fingernail body can be selectively secured in a precision fit

12

on the real fingernail so as to substantially cover all of the exposed top surface of the real fingernail, the fingernail body being integrally molded as a discrete unit comprised of an acetone resistant thermoplastic material, a binding pocket being formed on the inner face of the fingernail body.

17. An artificial fingernail as recited in claim 16 wherein the fingernail body is comprised of a thermoplastic material that bonds with cyanoacrylate such that cyanoacrylate can independently be used to securely bond the fingernail body to the top surface of the real fingernail.

18. An artificial fingernail as recited in claim 1, wherein the thermoplastic material comprises an acetal resin.

19. An artificial fingernail for removable attachment to an exposed top surface of a specific real fingernail, the artificial fingernail comprising a fingernail body having an inner face, at least a portion of the inner face of the fingernail body being specifically formed to have a configuration substantially identical in complement to at least a portion the exposed top surface of the specific real fingernail such that the inner face of the fingernail body can be selectively secured in a precision fit on the real fingernail, at least a portion of inner face of the fingernail body having binding pockets formed thereon, the fingernail body being comprised of an acetal thermoplastic material.

20. An artificial fingernail as recited in claim 19, further comprising a filler dispersed within the thermoplastic material.

21. An artificial fingernail as recited in claim 19, further comprising a coloring agent dispersed within the thermoplastic material.

22. An artificial fingernail as recited claim 19, wherein the thermoplastic material is USP class 6 medical grade.

23. An artificial fingernail as recited in claim 19, wherein thermoplastic material has a durometer hardness in a range between about 50 to about 120 based on a Shore A scale.

\* \* \* \* \*



EXHIBIT "D"

# Presenting ActivNals by *Sev* INTERNATIONAL

*The world's most advanced nail product.*

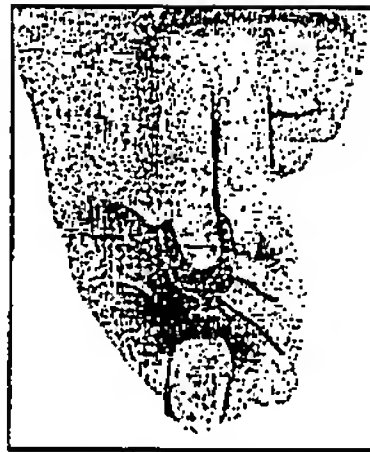
- Superior in elegance, natural in look and feel
- Unsurpassed in wear and performance
- Healthier compared to other artificial nail products

	ActivNal	Acrylics
Comfortable and natural looking	Yes	No
Custom fit, flawless & elegant every time.	Yes	No
Can be applied and removed at the time of your choosing - easily and quickly.	Yes	No
No exposure to harmful fumes and hazardous chemicals. Non-toxic.	Yes	No
No filing or drilling to the natural nail	Yes	No
Thinner, stronger, reusable, virtually indestructible.	Yes	No
One time product cost vs. bi-monthly costs. Save thousands of dollars over time.	Yes	No

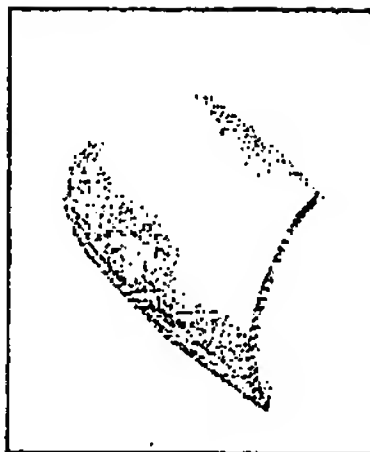
Each ActivNal is made of virtually indestructible high impact thermo-plastic material. They are anti-bacterial and anti-microbial. The adhesive used is medical grade non-toxic and safe for the body. ActivNals contain UV light protection to prevent yellowing and fading. ActivNal guarantees never to break, chip, or crack for life. *Simply Perfect!*

## Our Process

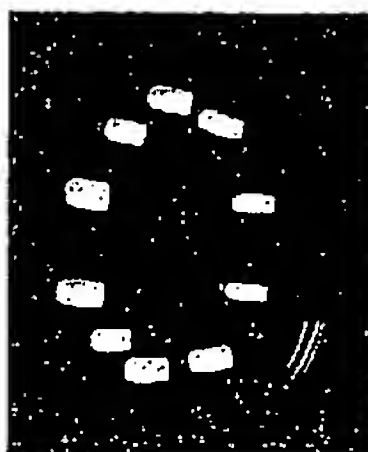
1. Begin by having impressions taken of your (newly) professionally manicured nails.



2. Next, your impressions will be scanned by our state of the art laser and stored in our computer system.



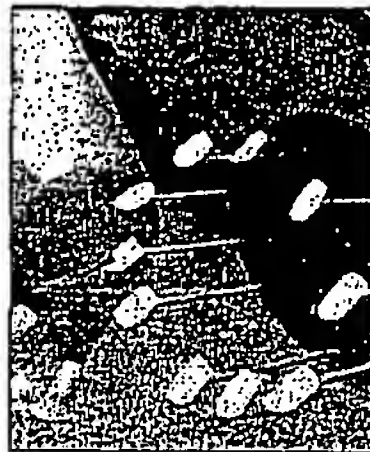
3. Your ActivNals are specifically created to fit your natural nails anatomy with precision accuracy.



4. We return to you your custom fitted nails within approximately one week.



5. Simply polish with top coat on our exclusive ActivNals stand for ease and convenience.



6. Apply and enjoy. Admire the transformation! You now have beautiful hands and nails anytime you choose.



Exclusive patent technology. US Patent Nos. 5,908,302 and 6,196,234. 9 additional patents pending.

## ActivNal Maintenance

As your nail grows out, you will see a small space between your cuticle and the ActivNal. This is the time to remove, clean, polish and re-apply.

1. Removal process - Do it yourself or have your nail technician do it for you. Simply soak to dissolve glue.



2. Use your removal wand to gently detach ActivNal from your nail bed.



3. Clean your natural nail and ActivNals of the residual glues. Acetone will NOT harm your ActivNals.



4. Polish your ActivNals using our exclusive ActivNal stand for ease and reapply.



5. Beautiful hands, clean and healthy nails.



EXHIBIT "E"



## NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this "Agreement") is made effective as of July 1, 2003, between True Fit Nails, LLC ("TFN"), of 1076 Walburk Ave, Layton, UT 84040, and Craig P Gifford ("GIFFORD"), of 7560 S. 2480 West, West Jordan, UT 84084.

### BACKGROUND:

In this Agreement, the party who owns the Confidential and Proprietary Information will be referred to as "TFN" and the party to whom the Confidential and Proprietary Information will be disclosed will be referred to as "GIFFORD". Further, in this Agreement, the party who is requesting the non-compete from the other party shall be referred to as "TFN", and the party who is agreeing not to compete shall be referred to as "GIFFORD".

TFN is engaged in the Cosmetics Industry with an emphasis on the Artificial Fingernail components of that industry. TFN represents a company with unique technologies, contacts, processes and methods related to artificial fingernail products. TFN is a limited liability company doing business lawfully in the state of Utah. GIFFORD has represented an interest in learning about TFN and working with TFN products. Gifford has primarily been involved with Ova Nail Products, Inc and in developing an Artificial Nail technology that has been transferred to TFN pursuant to an Asset Purchase Agreement ("APA"). Additional Intellectual Property, Confidential and Proprietary Information may be disclosed to GIFFORD in furtherance of the APA or the mutual beneficial business relationship that may continue between Gifford and TFN. Further information may be disclosed to GIFFORD for the beneficial purposes of TFN as determined by its President or CEO. TFN has requested that GIFFORD will protect the Intellectual Property, Confidential Information or Proprietary Information and any information that may be disclosed between TFN and GIFFORD.

GIFFORD shall be made aware of proprietary concepts, technology, improvements, copyrights, trademarks, pending patents or patentable interests and other considerable and valuable information directly related and pertaining to the ongoing and future interests of TFN, its assigns or designees.

Therefore, the parties agree as follows:

### I. CONFIDENTIALITY PROVISIONS

A. **CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any information or material which is proprietary to TFN, whether or not owned or developed by TFN, which is not generally known or utilized other than by TFN, and which GIFFORD may obtain through any direct or indirect contact with TFN. Throughout this Agreement Confidential Information shall include the following:

1. Confidential Information includes without limitation:

- a) Business records and plans
- b) Financial statements
- c) Customer lists and records
- d) Trade secrets
- e) Technical information
- f) Products
- g) Inventions
- h) Product design information
- i) Pricing structure
- j) Discounts
- k) Costs
- l) Computer programs and listings
- m) Source code and/or object code
- n) Copyrights and other Intellectual Property
- o) Patentable hardware designs
- p) Other proprietary information.

2. Proprietary Information includes without limitation:

- a) Trade secrets
- b) Trade contacts
- c) Customer Lists
- d) Vendor Lists
- e) Employee Lists
- f) Hardware concepts
- g) Product Concepts
- h) Programming concepts
- i) Marketing concepts
- j) Recruiting concepts
- k) Employment concepts
- l) Industry specific research material

3. Intellectual Property means

- a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents of TFN, its assignees and/or affiliates, patent applications of TFN, its assignees and/or affiliates, and patent disclosures related to TFN or its affiliates, together with all



reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof.

b) all marks related to TFN or its affiliates, whether protected under federal or state law, including trademarks, service marks, trade dress, logos, slogans, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith,

c) writings and other works subject to copyright protection under the Copyright Act, including all copyrighted works related to TFN or its affiliates, copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith,

d) all mask works and all applications, registrations, and renewals in connection therewith,

e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer information and lists, and supplier information and lists, current and potential client information and lists, current and potential patient information and lists, pricing and cost information, business and marketing plans and proposals, and financial information and forecasts)

f) all computer software (including data, disks, licenses and related documentation),

g) all other proprietary and intangible rights and assets, whether actual or potential,

h) all web sites and domain names, including but not limited to domain names controlled or operated by TFN, its assignees and affiliates, and the contents of all such web sites; and

i) all copies and tangible embodiments thereof (in whatever form or medium)

B. PROTECTION OF CONFIDENTIAL INFORMATION. GIFFORD understands and acknowledges that the Confidential Information set forth in Section A has been developed or obtained by TFN by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of TFN that provides TFN with a significant competitive advantage, and needs to be protected from unauthorized or improper disclosure. In consideration for the disclosure of the Confidential Information, GIFFORD agrees to hold in confidence and to not disclose the Confidential Information to any person or entity

without the prior written consent of TFN. GIFFORD will not at any time permit the Confidential Information, Proprietary Information or Intellectual Property to be exported to any other country without the prior written permission of TFN. In addition, GIFFORD agrees that:

1. *No Copying/Modifying.* GIFFORD will not copy or modify any Intellectual Property, Confidential or Proprietary Information without the prior written consent of TFN.

2. *Application to Employees.* Further, GIFFORD shall not disclose any Intellectual Property or Confidential Information to any employees, associates, friends or other persons related to GIFFORD. Each permitted person to whom this information is disclosed shall sign a non-disclosure agreement substantially the same as this Agreement at the request of TFN.

3. *Unauthorized Disclosure of Information.* If it appears that GIFFORD has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, TFN shall be entitled to a preliminary and permanent injunction to restrain GIFFORD from disclosing, using, or otherwise revealing in whole or in part, the Confidential Information. TFN shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages and attorneys fees.

C. **RETURN OF CONFIDENTIAL INFORMATION.** Upon the written or oral request of TFN, GIFFORD shall return to TFN all written materials containing the Confidential Information. GIFFORD shall also deliver to TFN written statements signed by GIFFORD certifying that all materials have been returned within five (5) days of receipt of the request.

D. **NO WARRANTY.** GIFFORD acknowledges and agrees that the Confidential Information is provided on an AS IS basis. TFN MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL TFN BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION.

E. **LIMITED LICENSE TO USE.** GIFFORD shall not acquire any intellectual property rights under this Agreement except the limited rights as set out above. GIFFORD acknowledges that, as between TFN and GIFFORD, the Confidential Information and all related copyrights and



other Intellectual Property rights, are (and at all times will be) the property of TFN, even if suggestions, comments, and/or ideas made by GIFFORD are incorporated into the Confidential Information or related materials during the period of this Agreement.

F. **INFORMATION OWNERSHIP.** Any contributions made by GIFFORD shall become the exclusive and proprietary property of TFN. All proprietary information disclosed between the parties shall be considered and remain the exclusive property of TFN. All interactions between the parties shall be through This Agreement and it is expected that the protection provided by This Agreement shall prevail. GIFFORD shall comply with all legal duties and execute all documents necessary to perfect TFN's Intellectual Property claims (including assignment of invention, work made for hire agreements, assignment of copyright and any trademark agreements).

## II. **NON-COMPETE PROVISIONS**

A. **NON-COMPETE COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, GIFFORD will not directly or indirectly engage in any business that competes with TFN. This non-compete clause is limited to the TFN artificial nail product concepts and incorporates the United States. The intent of this is to prevent GIFFORD from taking his experience and knowledge of any Confidential Information learned by working with TFN to a competitor of TFN. This covenant shall apply to the geographical area that includes the United States of America and specifically all cosmetic businesses that develop competing artificial nail products. The time period of this covenant may be extended by any other agreement between the parties, and in the event that such extension does occur, the period of time throughout this agreement will be modified as if it includes the extension.

B. **NON-SOLICITATION COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, GIFFORD will not directly or indirectly solicit business from, or attempt to sell, license or provide the same or similar products or services as are now provided to, any customer, client or competitor of TFN. Further, for a period from the effective date through five (5) years after the termination date of this Agreement, GIFFORD will not directly or indirectly solicit, induce or attempt to induce any employee, contractor, or vendor of TFN to terminate affiliation with TFN.

C. **CONFIDENTIALITY.** GIFFORD will not at any time or in any manner, either directly or indirectly, use for the personal benefit of GIFFORD, his heirs, successors, assignees, employers, affiliates, partners, executors or family the Confidential Information made available to Gifford under this Agreement. GIFFORD will not divulge, disclose, or communicate in any

manner any Confidential Information of TFN. GIFFORD will protect TFN's Confidential Information and treat it as strictly confidential. The obligation of GIFFORD not to disclose Confidential Information shall continue from the effective date for a period of three (3) years after the termination date of this Agreement. Within 5 days after receiving a written request, GIFFORD will return to TFN all records, notes, documentation and other items that were used, created, or controlled by GIFFORD.

III. **SEVERABILITY.** The parties have attempted to limit the non-compete provision so that it applies only to the extent necessary to protect legitimate business and property interests of TFN. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IV. **INJUNCTION.** It is agreed that if GIFFORD violates the terms of this Agreement irreparable harm will occur, and money damages will be insufficient to compensate TFN. Therefore, TFN shall be entitled to seek injunctive relief (i.e., a court order that requires GIFFORD to comply with this Agreement) to enforce the terms of this Agreement. This shall in no way limit TFN from pursuing monetary damages for violating this Agreement. In the event injunctive enforcement of this Agreement becomes necessary, GIFFORD shall be liable to TFN for attorney's fees and all court costs to perfect the injunction.

V. **GENERAL PROVISIONS.** This Agreement sets forth the entire understanding of the parties regarding Confidential Information. Any amendments or modifications to this Agreement must be in writing and signed by both parties. This Agreement shall not be assignable by GIFFORD, and GIFFORD may not delegate his duties under this Agreement without the prior written consent of TFN. The confidentiality provisions of this Agreement shall remain in full force and effect after the effective and termination dates of this Agreement. Facsimiles of this document will be as binding as the originals. Attorneys' fees shall be awarded to the prevailing party regarding any dispute under this Agreement.

VI. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Utah. Jurisdiction and Venue shall be in Salt Lake County, Utah.

This Agreement is executed and entered into freely, without prejudice in Salt Lake County in the state of Utah upon the Effective Date recited on the first page.



TRUE FIT NAILS, LLC.

"TFN"

BY: 

ITS: MANAGER

NON-COMPETING PARTY AND RECIPIENT:

"GIFFORD"

BY: 

Craig P. Gifford

EXHIBIT "F"



## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this "Agreement") is made effective as of January 11, 2006, between Artificial Nail Technologies, Inc. (ANT), of 2550 S. Decker Lake Blvd #1, West Valley City, UT 84119, and Flowering Scents, LLC (FS), of Las Vegas, NV.

In this Agreement, the party who owns the Confidential and Proprietary Information will be referred to as "FS" and the party to whom the Confidential and Proprietary Information will be disclosed will be referred to as "ANT". Further, in this Agreement, the party who is requesting the non-competition from the other party shall be referred to as "FS", and the party who is agreeing not to compete shall be referred to as "ANT".

FS is engaged in the Cosmetics Industry with an emphasis on uniquely scented products and an Epiceutical product. FS represents a company with unique technologies, contacts, processes and methods related to its product products. FS is a Limited Liability Company legally doing business in the State of Nevada. ANT has represented an interest in learning about FS and FS products. Confidential and Proprietary Information may be disclosed to ANT to determine whether ANT or FS may be benefited in a business relationship with each other respectfully. Further information may be disclosed to ANT for the beneficial purposes of FS as determined by its Principals. FS has requested that ANT will protect the confidential material and any information that may be disclosed between FS and ANT.

ANT shall be made aware of proprietary concepts, technology, improvements, copyrights, trademarks, pending patents or patentable interests and other considerable and valuable information directly related and pertaining to the ongoing and future interests of FS.

Therefore, the parties agree as follows:

### I. CONFIDENTIALITY PROVISIONS

A. **CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any information or material which is proprietary to FS, whether or not owned or developed by FS, which is not generally known or utilized other than by FS, and which ANT may obtain through any direct or indirect contact with FS:

#### 1. Confidential Information includes without limitation:

- a) Business records and plans
- b) Financial statements
- c) Customer lists and records
- d) Trade secrets
- e) Technical information
- f) Products
- g) Inventions
- h) Product design information
- i) Pricing structure
- j) Discounts
- k) Costs
- l) Computer programs and listings
- m) Source code and/or object code
- n) Copyrights and other intellectual property
- o) Patentable hardware designs
- p) Other proprietary information.

#### 2. Proprietary Information includes without limitation:

- a) Trade secrets
- b) Hardware concepts
- c) Product Concepts
- d) Programming concepts
- e) Marketing concepts

- f) Recruiting concepts
- g) Employment concepts
- h) Industry specific research material

3. Intellectual Property means

- a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents of FS, its assignees and/or affiliates, patent applications of FS, its assignees and/or affiliates, and patent disclosures related to FS or its affiliates, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof,
- b) all marks related to FS or its affiliates, whether protected under federal or state law, including trademarks, service marks, trade dress, logos, slogans, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith,
- c) writings and other works subject to copyright protection under the Copyright Act, including all copyrighted works related to FS or its affiliates, copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith,
- d) all mask works and all applications, registrations, and renewals in connection therewith,
- e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer information and lists, and supplier information and lists, current and potential client information and lists, current and potential patient information and lists, pricing and cost information, business and marketing plans and proposals, and financial information and forecasts),
- f) all computer software (including data, disks, licenses and related documentation),
- g) all other proprietary and intangible rights and assets, whether actual or potential,
- h) all web sites and domain names, including but not limited to domain names controlled or operated by FS, its assignees and affiliates, and the contents of all such web sites; and
- i) all copies and tangible embodiments thereof (in whatever form or medium).

**B. PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION.** ANT understands and acknowledges that the Confidential Information has been developed or obtained by FS by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of FS which provides FS with a significant competitive advantage, and needs to be protected from improper disclosure. In consideration for the disclosure of the Confidential Information, ANT agrees to hold in confidence and to not disclose the Confidential Information to any person or entity without the prior written consent of FS. ANT will not at any time permit the Confidential Information, Proprietary Information or Intellectual Property to be exported to any other country without the prior written permission of FS. In addition, ANT agrees that:

1. *No Copying/Modifying.* ANT will not copy or modify any Confidential or Proprietary Information without the prior written consent of FS.
2. *Application to Employees.* Further, ANT shall not disclose any Confidential Information to any employees, associates, friends or other persons related to ANT. Each permitted person to whom Confidential Information is disclosed shall sign a non-disclosure agreement substantially the same as this Agreement at the request of FS.

3. *Unauthorized Disclosure of Information.* If it appears that ANT has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, FS shall be entitled to an injunction to restrain ANT from disclosing, in whole or in part, the Confidential Information. FS shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

C. **RETURN OF CONFIDENTIAL INFORMATION.** Upon the written or oral request of FS, ANT shall return to FS all written materials containing the Confidential Information. ANT shall also deliver to FS written statements signed by ANT certifying that all materials have been returned within five (5) days of receipt of the request.

D. **RELATIONSHIP OF PARTIES.** Neither party has an obligation under this Agreement to purchase any service or item from the other party, or commercially offer any products using or incorporating the Confidential Information. This Agreement does not create any agency, partnership, or joint venture.

E. **NO WARRANTY.** ANT acknowledges and agrees that the Confidential Information is provided on an AS IS basis. FS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL FS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION.

F. **LIMITED LICENSE TO USE.** ANT shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. ANT acknowledges that, as between FS and ANT, the Confidential Information and all related copyrights and other intellectual property rights, are (and at all times will be) the property of FS, even if suggestions, comments, and/or ideas made by ANT are incorporated into the Confidential Information or related materials during the period of this Agreement.

G. **INFORMATION OWNERSHIP.** Any contributions made by ANT shall become the exclusive and proprietary property of FS. All proprietary information disclosed between the parties shall be considered and remain the exclusive property of FS. All interactions between the parties shall be through This Agreement and it is expected that the protection provided by This Agreement shall prevail.

## II. **NON-COMPETE PROVISIONS**

A. **NON-COMPETE COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, ANT will not directly or indirectly engage in any business that competes with FS. This non-compete clause is limited to the FS product concept and incorporates the United States. The intent of this is to prevent ANT from taking its experience and knowledge of any confidential information learned by working with FS to a competitor of FS. This covenant shall apply to the geographical area that includes the United States of America and specifically all Internet related companies. The time period of this covenant may be extended by any other agreement between the parties, and in the event that such extension does occur, the period of time throughout this agreement will be modified as if it includes the extension.

B. **NON-SOLICITATION COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, ANT will not directly or indirectly solicit business from, or attempt to sell, license or provide the same or similar products or services as are now provided to, any customer, client or competitor of FS. Further, for a period of 5 years after the effective date of this Agreement, ANT will not directly or indirectly solicit, induce or attempt to induce any employee of FS to terminate his or her employment with FS.

C. **CONFIDENTIALITY.** ANT will not at any time or in any manner, either directly or indirectly, use for the personal benefit of ANT, his heirs, successors, assignees, employers, affiliates, partners, executors or family. ANT will not divulge, disclose, or communicate in any manner any information that is proprietary to FS. ANT will protect such information and treat it as strictly confidential. The obligation of ANT not to disclose confidential information shall continue from the effective date for a period of three (3) years after the termination date of this Agreement. Within 5 days after receiving a written request, ANT will return to FS all records, notes, documentation and other items that were used, created, or controlled by ANT.

III. **SEVERABILITY.** ~~The parties have attempted to limit the non-compete provision so that it applies~~ only to the extent necessary to protect legitimate business and property interests of FS. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IV. **INJUNCTION.** It is agreed that if ANT violates the terms of this Agreement irreparable harm will occur, and money damages will be insufficient to compensate FS. Therefore, FS will be entitled to seek injunctive relief (i.e., a court order that requires ANT to comply with this Agreement) to enforce the terms of this Agreement. This shall in no way limit FS from pursuing monetary damages for violating This Agreement.

V. **GENERAL PROVISIONS.** This Agreement sets forth the entire understanding of the parties regarding confidentiality, non-solicitation, and non-compete covenants. Any amendments must be in writing and signed by both parties. This Agreement shall not be assignable by ANT, and ANT may not delegate its duties under this Agreement, without the prior written consent of FS. The confidentiality provisions of this Agreement shall remain in full force and effect after the effective and termination dates of this Agreement. Facsimiles of this document will be as binding as the originals. Attorneys' fees shall be awarded to the prevailing party regarding any dispute under this Agreement.

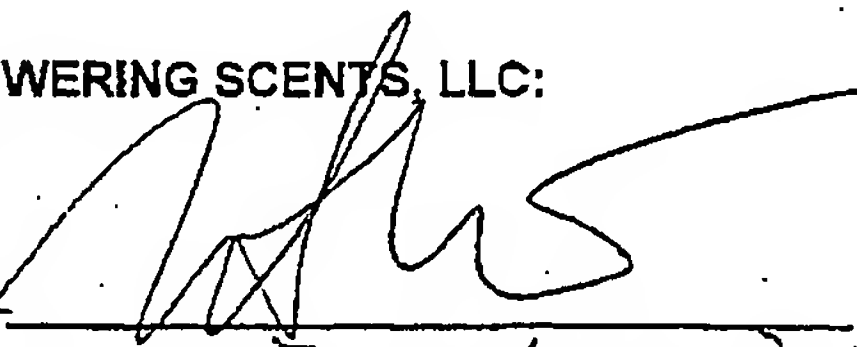
VI. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Utah. Jurisdiction and Venue shall be in Salt Lake County, Utah.

This Agreement is executed and entered into freely, without prejudice in Salt Lake County in the state of Utah upon the Effective Date.

**ARTIFICIAL NAIL TECHNOLOGIES, INC:**  
"ANT"

BY:   
ITS: CEO

**FLOWERING SCENTS, LLC:**  
"FS"

BY:   
NAME: Mike Macris



**CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Confidentiality and Non-Compete Agreement (this "Agreement") is made effective as of JAN. 11 2006 between Artificial Nail Technologies, Inc. (ANT), of 2550 S. Decker Lake Blvd #1, West Valley City, UT 84119, and MICHAEL MACRIS (NCP), of Flowering SCENTS LLC.

In this Agreement, the party who owns the Confidential and Proprietary Information will be referred to as "ANT" and the party to whom the Confidential and Proprietary Information will be disclosed will be referred to as "NCP". Further, in this Agreement, the party who is requesting the non-competition from the other party shall be referred to as "ANT", and the party who is agreeing not to compete shall be referred to as "NCP".

ANT is engaged in the Cosmetics Industry with an emphasis on the Artificial Fingernail components of that industry. ANT represents a company with unique technologies, contacts, processes and methods related to artificial fingernail products. ANT is incorporated in the state of Utah. NCP has represented an interest in learning about ANT and ANT products. Confidential and Proprietary Information may be disclosed to NCP to determine whether NCP or ANT may be benefited in a business relationship with each other respectfully. Further information may be disclosed to NCP for the beneficial purposes of ANT as determined by its President or CEO. ANT has requested that NCP will protect the confidential material and any information that may be disclosed between ANT and NCP.

NCP shall be made aware of proprietary concepts, technology, improvements, copyrights, trademarks, pending patents or patentable interests and other considerable and valuable information directly related and pertaining to the ongoing and future interests of ANT. Therefore, the parties agree as follows:

**I. CONFIDENTIALITY PROVISIONS**

**A. CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any information or material which is proprietary to ANT, whether or not owned or developed by ANT, which is not generally known or utilized other than by ANT, and which NCP may obtain through any direct or indirect contact with ANT.

**1. Confidential Information includes without limitation:**

- a) Business records and plans
- b) Financial statements
- c) Customer lists and records
- d) Trade secrets
- e) Technical information
- f) Products
- g) Inventions
- h) Product design information
- i) Pricing structure
- j) Discounts
- k) Costs
- l) Computer programs and listings
- m) Source code and/or object code
- n) Copyrights and other intellectual property
- o) Patentable hardware designs
- p) Other proprietary information.

**2. Proprietary Information includes without limitation:**

- a) Trade secrets
- b) Hardware concepts
- c) Product Concepts
- d) Programming concepts
- e) Marketing concepts

- f) Recruiting concepts
- g) Employment concepts
- h) Industry specific research material

3. Intellectual Property means

- a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents of ANT, its assignees and/or affiliates, patent applications of ANT, its assignees and/or affiliates, and patent disclosures related to ANT or its affiliates, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof,
- b) all marks related to ANT or its affiliates, whether protected under federal or state law, including trademarks, service marks, trade dress, logos, slogans, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith,
- c) writings and other works subject to copyright protection under the Copyright Act, including all copyrighted works related to ANT or its affiliates, copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith,
- d) all mask works and all applications, registrations, and renewals in connection therewith,
- e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer information and lists, and supplier information and lists, current and potential client information and lists, current and potential patient information and lists, pricing and cost information, business and marketing plans and proposals, and financial information and forecasts),
- f) all computer software (including data, disks, licenses and related documentation),
- g) all other proprietary and intangible rights and assets, whether actual or potential,
- h) all web sites and domain names, including but not limited to domain names controlled or operated by ANT, its assignees and affiliates, and the contents of all such web sites; and
- i) all copies and tangible embodiments thereof (in whatever form or medium).

**B. PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION.** NCP understands and acknowledges that the Confidential Information has been developed or obtained by ANT by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of ANT which provides ANT with a significant competitive advantage, and needs to be protected from improper disclosure. In consideration for the disclosure of the Confidential Information, NCP agrees to hold in confidence and to not disclose the Confidential Information to any person or entity without the prior written consent of ANT. NCP will not at any time permit the Confidential Information, Proprietary Information or Intellectual Property to be exported to any other country without the prior written permission of ANT. In addition, NCP agrees that:

1. *No Copying/Modifying.* NCP will not copy or modify any Confidential or Proprietary Information without the prior written consent of ANT.
2. *Application to Employees.* Further, NCP shall not disclose any Confidential Information to any employees, associates, friends or other persons related to NCP. Each



permitted person to whom Confidential Information is disclosed shall sign a non-disclosure agreement substantially the same as this Agreement at the request of ANT.

3. *Unauthorized Disclosure of Information.* If it appears that NCP has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, ANT shall be entitled to an injunction to restrain NCP from disclosing, in whole or in part, the Confidential Information. ANT shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

C. **RETURN OF CONFIDENTIAL INFORMATION.** Upon the written or oral request of ANT, NCP shall return to ANT all written materials containing the Confidential Information. NCP shall also deliver to ANT written statements signed by NCP certifying that all materials have been returned within five (5) days of receipt of the request.

D. **RELATIONSHIP OF PARTIES.** Neither party has an obligation under this Agreement to purchase any service or item from the other party, or commercially offer any products using or incorporating the Confidential Information. This Agreement does not create any agency, partnership, or joint venture.

E. **NO WARRANTY.** NCP acknowledges and agrees that the Confidential Information is provided on an AS IS basis. **ANT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL ANT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION.**

F. **LIMITED LICENSE TO USE.** NCP shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. NCP acknowledges that, as between ANT and NCP, the Confidential Information and all related copyrights and other intellectual property rights, are (and at all times will be) the property of ANT, even if suggestions, comments, and/or ideas made by NCP are incorporated into the Confidential Information or related materials during the period of this Agreement.

G. **INFORMATION OWNERSHIP.** Any contributions made by NCP shall become the exclusive and proprietary property of ANT. All proprietary information disclosed between the parties shall be considered and remain the exclusive property of ANT. All interactions between the parties shall be through This Agreement and it is expected that the protection provided by This Agreement shall prevail.

## II. **NON-COMPETE PROVISIONS**

A. **NON-COMPETE COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, NCP will not directly or indirectly engage in any business that competes with ANT. This non-compete clause is limited to the ANT product concept and incorporates the United States. The intent of this is to prevent NCP from taking its experience and knowledge of any confidential information learned by working with ANT to a competitor of ANT. This covenant shall apply to the geographical area that includes the United States of America and specifically all Internet related companies. The time period of this covenant may be extended by any other agreement between the parties, and in the event that such extension does occur, the period of time throughout this agreement will be modified as if it includes the extension.

B. **NON-SOLICITATION COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, NCP will not directly or indirectly solicit business from, or attempt to sell, license or provide the same or similar products or services as

are now provided to, any customer, client or competitor of ANT. Further, for a period of 5 years after the effective date of this Agreement, NCP will not directly or indirectly solicit, induce or attempt to induce any employee of ANT to terminate his or her employment with ANT.

C. **CONFIDENTIALITY.** NCP will not at any time or in any manner, either directly or indirectly, use for the personal benefit of NCP, his heirs, successors, assignees, employers, affiliates, partners, executors or family. NCP will not divulge, disclose, or communicate in any manner any information that is proprietary to ANT. NCP will protect such information and treat it as strictly confidential. The obligation of NCP not to disclose confidential information shall continue from the effective date for a period of three (3) years after the termination date of this Agreement.

~~Within 5 days after receiving a written request, NCP will return to ANT all records, notes, documentation and other items that were used, created, or controlled by NCP.~~

III. **SEVERABILITY.** The parties have attempted to limit the non-compete provision so that it applies only to the extent necessary to protect legitimate business and property interests of ANT. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IV. **INJUNCTION.** It is agreed that if NCP violates the terms of this Agreement irreparable harm will occur, and money damages will be insufficient to compensate ANT. Therefore, ANT will be entitled to seek injunctive relief (i.e., a court order that requires NCP to comply with this Agreement) to enforce the terms of this Agreement. This shall in no way limit ANT from pursuing monetary damages for violating This Agreement.

V. **GENERAL PROVISIONS.** This Agreement sets forth the entire understanding of the parties regarding confidentiality, non-solicitation, and non-compete covenants. Any amendments must be in writing and signed by both parties. This Agreement shall not be assignable by either party, and neither party may delegate its duties under this Agreement, without the prior written consent of the other party. The confidentiality provisions of this Agreement shall remain in full force and effect after the effective date of this Agreement. Facsimiles of this document will be as binding as the originals.

VI. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Utah.

This Agreement is executed and entered into freely, without prejudice in Salt Lake County in the state of Utah upon the Effective Date.

**ARTIFICIAL NAIL TECHNOLOGIES, INC:**  
"ANT"

BY: [Signature]  
ITS: CEO

**NON-COMPETING PARTY AND RECIPIENT:**  
"NCP"

BY: [Signature] MANAGER  
NAME: Mike MACK, MANAGER

**CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Confidentiality and Non-Compete Agreement (this "Agreement") is made effective as of 1/18/2006, 2006, between Artificial Nail Technologies, Inc. (ANT), of 2550 S. Decker Lake Blvd #1, West Valley City, UT 84119, and CHRISTINA McNALLY Flowering Secret (NCP), of \_\_\_\_\_.

In this Agreement, the party who owns the Confidential and Proprietary Information will be referred to as "ANT" and the party to whom the Confidential and Proprietary Information will be disclosed will be referred to as "NCP". Further, in this Agreement, the party who is requesting the non-competition from the other party shall be referred to as "ANT", and the party who is agreeing not to compete shall be referred to as "NCP".

ANT is engaged in the Cosmetics Industry with an emphasis on the Artificial Fingernail components of that industry. ANT represents a company with unique technologies, contacts, processes and methods related to artificial fingernail products. ANT is incorporated in the state of Utah. NCP has represented an interest in learning about ANT and ANT products. Confidential and Proprietary Information may be disclosed to NCP to determine whether NCP or ANT may be benefited in a business relationship with each other respectfully. Further information may be disclosed to NCP for the beneficial purposes of ANT as determined by its President or CEO. ANT has requested that NCP will protect the confidential material and any information that may be disclosed between ANT and NCP.

NCP shall be made aware of proprietary concepts, technology, improvements, copyrights, trademarks, pending patents or patentable interests and other considerable and valuable information directly related and pertaining to the ongoing and future interests of ANT. Therefore, the parties agree as follows:

**I. CONFIDENTIALITY PROVISIONS**

**A. CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any information or material which is proprietary to ANT, whether or not owned or developed by ANT, which is not generally known or utilized other than by ANT, and which NCP may obtain through any direct or indirect contact with ANT.

**1. Confidential Information includes without limitation:**

- a) Business records and plans
- b) Financial statements
- c) Customer lists and records
- d) Trade secrets
- e) Technical information
- f) Products
- g) Inventions
- h) Product design information
- i) Pricing structure
- j) Discounts
- k) Costs
- l) Computer programs and listings
- m) Source code and/or object code
- n) Copyrights and other intellectual property
- o) Patentable hardware designs.
- p) Other proprietary information.

**2. Proprietary Information includes without limitation:**

- a) Trade secrets
- b) Hardware concepts
- c) Product Concepts
- d) Programming concepts
- e) Marketing concepts

- f) Recruiting concepts
- g) Employment concepts
- h) Industry specific research material

3. Intellectual Property means

- a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents of ANT, its assignees and/or affiliates, patent applications of ANT, its assignees and/or affiliates, and patent disclosures related to ANT or its affiliates, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof,
- b) all marks related to ANT or its affiliates, whether protected under federal or state law, including trademarks, service marks, trade dress, logos, slogans, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith,
- c) writings and other works subject to copyright protection under the Copyright Act, including all copyrighted works related to ANT or its affiliates, copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith,
- d) all mask works and all applications, registrations, and renewals in connection therewith,
- e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer information and lists, and supplier information and lists, current and potential client information and lists, current and potential patient information and lists, pricing and cost information, business and marketing plans and proposals, and financial information and forecasts),
- f) all computer software (including data, disks, licenses and related documentation),
- g) all other proprietary and intangible rights and assets, whether actual or potential,
- h) all web sites and domain names, including but not limited to domain names controlled or operated by ANT, its assignees and affiliates, and the contents of all such web sites; and
- i) all copies and tangible embodiments thereof (in whatever form or medium).

**B. PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION.** NCP understands and acknowledges that the Confidential Information has been developed or obtained by ANT by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of ANT which provides ANT with a significant competitive advantage, and needs to be protected from improper disclosure. In consideration for the disclosure of the Confidential Information, NCP agrees to hold in confidence and to not disclose the Confidential Information to any person or entity without the prior written consent of ANT. NCP will not at any time permit the Confidential Information, Proprietary Information or Intellectual Property to be exported to any other country without the prior written permission of ANT. In addition, NCP agrees that:

1. *No Copying/Modifying.* NCP will not copy or modify any Confidential or Proprietary Information without the prior written consent of ANT.
2. *Application to Employees.* Further, NCP shall not disclose any Confidential Information to any employees, associates, friends or other persons related to NCP. Each



permitted person to whom Confidential Information is disclosed shall sign a non-disclosure agreement substantially the same as this Agreement at the request of ANT.

3. *Unauthorized Disclosure of Information.* If it appears that NCP has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, ANT shall be entitled to an injunction to restrain NCP from disclosing, in whole or in part, the Confidential Information. ANT shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

**C. RETURN OF CONFIDENTIAL INFORMATION.** Upon the written or oral request of ANT, NCP shall return to ANT all written materials containing the Confidential Information. NCP shall also deliver to ANT written statements signed by NCP certifying that all materials have been returned within five (5) days of receipt of the request.

**D. RELATIONSHIP OF PARTIES.** Neither party has an obligation under this Agreement to purchase any service or item from the other party, or commercially offer any products using or incorporating the Confidential Information. This Agreement does not create any agency, partnership, or joint venture.

**E. NO WARRANTY.** NCP acknowledges and agrees that the Confidential Information is provided on an AS IS basis. **ANT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL ANT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION.**

**F. LIMITED LICENSE TO USE.** NCP shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. NCP acknowledges that, as between ANT and NCP, the Confidential Information and all related copyrights and other intellectual property rights, are (and at all times will be) the property of ANT, even if suggestions, comments, and/or ideas made by NCP are incorporated into the Confidential Information or related materials during the period of this Agreement.

**G. INFORMATION OWNERSHIP.** Any contributions made by NCP shall become the exclusive and proprietary property of ANT. All proprietary information disclosed between the parties shall be considered and remain the exclusive property of ANT. All interactions between the parties shall be through This Agreement and it is expected that the protection provided by This Agreement shall prevail.

## II. **NON-COMPETE PROVISIONS**

**A. NON-COMPETE COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, NCP will not directly or indirectly engage in any business that competes with ANT. This non-compete clause is limited to the ANT product concept and incorporates the United States. The intent of this is to prevent NCP from taking its experience and knowledge of any confidential information learned by working with ANT to a competitor of ANT. This covenant shall apply to the geographical area that includes the United States of America and specifically all Internet related companies. The time period of this covenant may be extended by any other agreement between the parties, and in the event that such extension does occur, the period of time throughout this agreement will be modified as if it includes the extension.

**B. NON-SOLICITATION COVENANT.** For a period from the effective date through three (3) years after the termination date of this Agreement, NCP will not directly or indirectly solicit business from, or attempt to sell, license or provide the same or similar products or services as

are now provided to, any customer, client or competitor of ANT. Further, for a period of 5 years after the effective date of this Agreement, NCP will not directly or indirectly solicit, induce or attempt to induce any employee of ANT to terminate his or her employment with ANT.

C. **CONFIDENTIALITY.** NCP will not at any time or in any manner, either directly or indirectly, use for the personal benefit of NCP, his heirs, successors, assignees, employers, affiliates, partners, executors or family. NCP will not divulge, disclose, or communicate in any manner any information that is proprietary to ANT. NCP will protect such information and treat it as strictly confidential. The obligation of NCP not to disclose confidential information shall continue from the effective date for a period of three (3) years after the termination date of this Agreement. Within 5 days after receiving a written request, NCP will return to ANT all records, notes, documentation and other items that were used, created, or controlled by NCP.

III. **SEVERABILITY.** The parties have attempted to limit the non-compete provision so that it applies only to the extent necessary to protect legitimate business and property interests of ANT. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IV. **INJUNCTION.** It is agreed that if NCP violates the terms of this Agreement irreparable harm will occur, and money damages will be insufficient to compensate ANT. Therefore, ANT will be entitled to seek injunctive relief (i.e., a court order that requires NCP to comply with this Agreement) to enforce the terms of this Agreement. This shall in no way limit ANT from pursuing monetary damages for violating This Agreement.

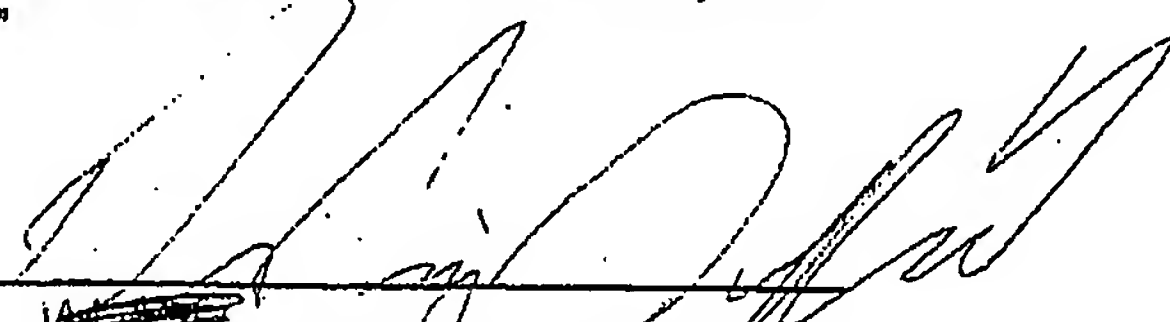
V. **GENERAL PROVISIONS.** This Agreement sets forth the entire understanding of the parties regarding confidentiality, non-solicitation, and non-compete covenants. Any amendments must be in writing and signed by both parties. This Agreement shall not be assignable by either party, and neither party may delegate its duties under this Agreement, without the prior written consent of the other party. The confidentiality provisions of this Agreement shall remain in full force and effect after the effective date of this Agreement. Facsimiles of this document will be as binding as the originals.

VI. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Utah.

This Agreement is executed and entered into freely, without prejudice in Salt Lake County in the state of Utah upon the Effective Date.

**ARTIFICIAL NAIL TECHNOLOGIES, INC:**  
"ANT"

BY:  
ITS:

  
CHAIRONA

**NON-COMPETING PARTY AND RECIPIENT:**  
"NCP"

BY:

NAME:

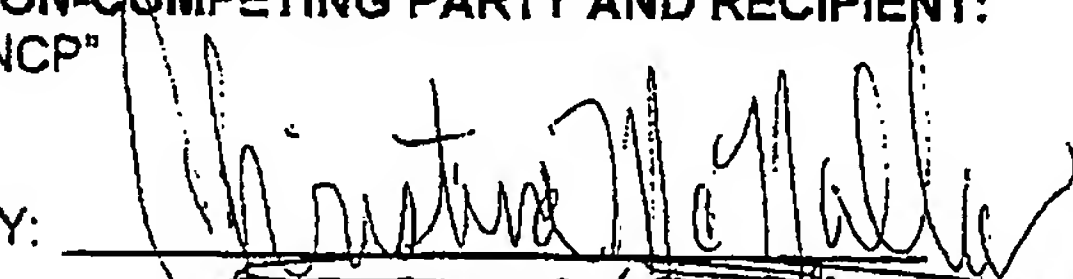
  
~~CHRISTINA MCNALLY~~  
CHRISTINA MCNALLY, MANAGER  
FLOWERING SCENTS, LLC



EXHIBIT "G"

## ASSET CONTRIBUTION AGREEMENT

(Flowering Scents, LLC  
Artificial Nail Technologies, Inc.)

THIS ASSET CONTRIBUTION AGREEMENT (the "Agreement") is made and entered into as of the 28th day of February 2006 and made effective as of February 1, 2006 ("Effective Date"), by and between SEVEA INTERNATIONAL, INC., a Nevada corporation ("Sevea"), FLOWERING SCENTS, LLC, a Nevada limited liability company ("Flowering Scents"), and ARTIFICIAL NAIL TECHNOLOGIES, INC., a Utah corporation ("Nail Technologies") (Flowering Scents and Nail Technologies are collectively referred to as the "Contributor").

### RECITALS

WHEREAS, Flowering Scents provides certain services relative to personal products with individualized and specialized scents (the "FS Business");

WHEREAS, Nail Technologies provides certain products and services related to fingernail products (the "NT Business") (the FS Business and the NT Business are collectively referred to herein as the "Business");

WHEREAS, Flowering Scents desires to contribute substantially all of its assets and Nail Technologies desires to contribute substantially all of its assets to Sevea in exchange for stock in Sevea. Immediately after the exchange, Flowering Scents and Nail Technologies shall be in control, as defined in Internal Revenue Code ("IRC") Section 368(c) or 368(d), of Sevea. The exchange is taking place in order to provide ongoing services to consumers through the synergistic operation of the FS Business and the NT Business, all on the terms and conditions set forth below; and

NOW THEREFORE, to that end and in consideration of the mutual covenants, agreements, representations, and warranties made in this Agreement, and the mutual benefits to be derived from this Agreement, the parties to this Agreement agree as follows:

### TERMS

#### ARTICLE 1

##### Contribution of Assets; No Liabilities

1.1 **Contribution of Assets.** Subject to the terms and conditions of this Agreement, on the "Exchange Date" (as defined below), the Contributor hereby agrees to transfer and assign to Sevea, and Sevea agrees to accept from the Contributor, free and clear of all liens, claims, security interests and rights of others, all of the Contributor's right, title and interest in and

to substantially all of the assets of the Contributor related to the Business, including without limitation the assets set forth below (collectively, the "Assets").

(a) Lease. All right, title and interest of Nail Technologies in and to the Leases for its retail location in Salt Lake City, Utah (the "Lease"), as more particularly described on attached Exhibit "A", together with any security deposit and other prepaid amounts paid by Nail Technologies under the Lease. ← 5700

(b) Inventory. All of the product inventory, including merchandise, of the Business as of the Exchange Date and described in Part 1 of attached Exhibit "B" (collectively, the "Inventory").

(c) Other Personal Property. All necessary business furnishings, equipment, leasehold improvements, supplies, and materials, as well as all other personal property used in connection with the operation of the Business described in Part 2 of attached Exhibit "B" (collectively, the "Equipment").

(d) Licenses and Contracts. To the extent transferrable, all rights of the Contributor under all licenses (under which the Contributor is a licensee), permits, authorizations, approvals, consents, contracts, personal property leases, and similar arrangements owned by the Contributor or to which the Contributor is a party as of the Exchange Date or used at any time prior to the Exchange Date in connection with the operation of the Business including those licenses and contracts listed in attached Exhibit "C" (collectively, the "Licenses and Contracts").

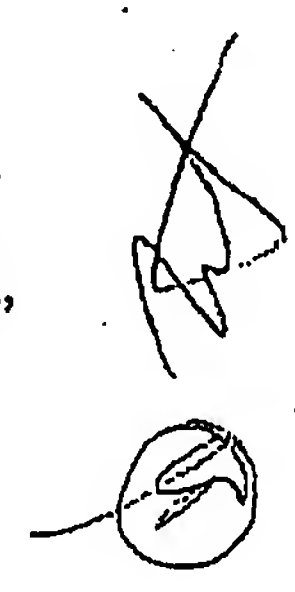
(e) Intellectual Property. All proprietary information with respect to any of the Assets, all priorities and rights associated with any of the Assets, and all other intellectual property rights relating to or associated with the Business, including without limitation trade secrets, or to the sale or use of all products now or previously produced by the Contributor, including, without limitation, all products sold under any trade names of the Contributor and the Business (collectively, the "Intellectual Property"), including without limitation the following:

(i) All financial information, price lists, supplier lists, books and records, data, files, records, notebooks, software and other computer records, if any, documentation, and similar information relating in any way to all or part of the Business or the Assets.

(ii) All customer lists of the Contributor relating to products at any time produced or supplied, or services at any time rendered, by the Contributor in connection with the Business to the extent actually maintained by Contributor (collectively, the "Customer Lists").

(f) Other Intangibles. All documents, instruments, accounts, chattel paper and general intangibles not otherwise described in this Section 1.1 and used in connection with the operation of the Business.

The Assets, the Leases, the Inventory, the Other Personal Property, the Licenses and Contracts, the Intellectual Property, and the Other Intangibles hereinafter collectively referred to as the "Property."

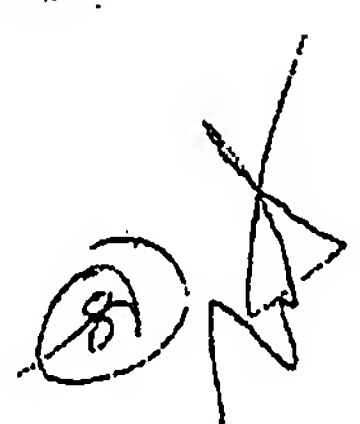


1.2 **Excluded Assets.** The Excluded Assets are more particularly listed and described on attached **Exhibit "D"**.

1.3 **Consideration.** As consideration for the transfer and assignment of the Property by Flowering Scents to Sevea, together with the covenants set forth in this Agreement, Sevea agrees to issue to Flowering Scents Five Million (5,000,000) shares of Common Stock in Sevea (the "FS Consideration") in exchange for the Property. As consideration for the transfer and assignment of the Property by Nail Technologies to Sevea, together with the covenants set forth in this Agreement, Sevea agrees to issue to the shareholders of Nail Technologies Ten Million (10,000,000) shares of Common Stock in Sevea (the "NT Consideration") in exchange for the Property. The shares of stock in Sevea issued pursuant hereto shall be issued at the Exchange Date in the names and number of shares more particularly described on attached **Exhibit "E"**.

The parties understand, acknowledge and agree that the Consideration constitutes adequate consideration for and in respect of any covenant, agreement or action taken or contemplated to be taken by the terms of this Agreement, including without limitation, the other documents referenced in Section 2.2, below. In addition, the parties understand, acknowledge and agree that this exchange of Property for stock in Sevea is intended to qualify as a tax-free transfer pursuant to IRC Section 351.

1.4 **Liabilities to be Transferred and the Responsibilities of the Parties.** Flowering Scents and Nail Technologies each shall retain and continue to be liable for all of their respective liabilities. Sevea shall not assume or be deemed to have assumed any liabilities of Flowering Scents and/or Nail Technologies, including, without limitation, (i) any obligation or liability the existence of which constitutes a breach of any representation or warranty made by the Contributor in this Agreement, (ii) any obligation to provide indemnification for breach of contract, infringement, or any other event occurring or relating to a period prior to the Exchange Date (as defined below) or the consummation of the transactions under this Agreement by the Contributor, (iii) any obligation to pay or reimburse for goods received by or services performed or rendered prior to the Exchange Date, or (iv) any federal, state, county, or local income tax relating to the Contributor, (v) any liability of the Contributor, incurred or relating to any time prior to the Exchange Date, for any federal, state, county, local or other property taxes, or any other taxes of any kind or description with respect to the Property and/or the Contributor's ownership and operation of the Property or the Business, or any contracts relating to the Property or the Business, (vi) any debts, promises to pay, or other obligation or liability, written or oral, and (vii) any other liability (including but not limited to any litigation) of Contributor, except to the extent disclosed or assumed by Sevea, whether incurred before or after the Exchange Date. Sevea shall not and does not assume or be deemed to have assumed, and Flowering Scents shall at all times indemnify and hold Sevea harmless from and against, any and all liabilities and obligations of Flowering Scents arising prior to or on the Exchange Date. Sevea shall not and does not assume or be deemed to have assumed, and Nail Technologies shall at all times indemnify and hold Sevea harmless from and against, any and all liabilities and obligations of Nail Technologies arising prior to or on the Exchange Date.



## ARTICLE 2

### EXCHANGE

2.1 **The Exchange; Transfer of Property.** The transfer and assignment of the Property contemplated by this Agreement (the "Exchange") shall be held at 2550 S. Decker Lake Blvd #1, West Valley City, Utah 84119, at the hour of 10:00 a.m. on or before the 1st day of March 2006, or at such date, such place and at such time as the parties may mutually agree (the "Exchange Date"); and provided that the date upon which the Exchange actually takes place shall be deemed and considered the "Exchange Date."

2.2 **Actions to be Taken at Exchange: Exchange Covenants.** At the Exchange, the following shall occur, each of which shall be considered to take place simultaneously, and each of which shall be a condition precedent to the other:

(a) Sevea shall execute and deliver to the Contributor, and the Contributor shall execute and deliver to Sevea, three fully executed originals of this Agreement and fully executed Common Stock certificates as noted in Section 1.3, above.

(b) The Contributor and Sevea, as applicable, shall execute and deliver the following (collectively with this Agreement, the "Transaction Documents"):

(i) Bill of Sale and Assignment of Property, substantially in the form which is attached hereto as **Exhibit "F,"** executed by the Contributor;

(ii) Assignment of Intellectual Property, substantially in the form which is attached hereto as **Exhibit "G,"** executed by the Contributor;

(iii) Assignment of Licenses and Contracts, substantially in the form which is attached hereto as **Exhibit "H,"** together with originals (or, if unavailable, copies) of the Licenses and Contracts, executed by the Contributor;

(iv) the Assignment and Assumption of Lease, substantially in the form attached hereto as **Exhibit "I,"** executed by the Contributor; and

(v) the Consent to Assignment of the Lease, substantially in the form attached hereto as **Exhibit "J,"** executed by the Landlord under the Lease.

(c) The Contributor shall deliver the Property (or control of the Property) to Sevea, and the Contributor shall take all steps which may be necessary or appropriate to put Sevea in actual possession and control of the Property, including, without limitation, delivering or giving Sevea access to and control of all records, licenses, contracts and other documents pertaining to the Property or its ownership or operation, any insurance policies, bills of sale or other documents evidencing title or right of owner, and any and all other records or documents pertaining to the Property, whether or not enumerated herein, which are necessary or desirable for the ownership or operation of the Property.



(d) The Contributor shall deliver to Sevea the original, as applicable, patents, trademark registrations, licenses, permits, certificates of title, bills of sale, or other evidence of ownership reasonably acceptable to Sevea for all of the Property.

(e) The Contributor shall deliver to Sevea corporate resolutions or other evidence (satisfactory to Sevea) authorizing the Contributor to enter into and perform this Agreement and the Transaction Documents and to perform all of the Contributor's obligations specified therein.

(g) Sevea shall deliver to the Contributor corporate resolutions or other evidence (satisfactory to the Contributor) authorizing Sevea to enter into and perform this Agreement and the Transaction Documents and to perform all of its obligations specified therein; and

(h) Sevea and the Contributor shall take or cause to be taken such other actions, and execute or cause to be executed such instruments and documents, as may be reasonably necessary or appropriate, to effectuate the transactions contemplated under this Agreement.

### ARTICLE 3

#### Representations, Warranties and Covenants of the Contributor

As of the date of this Agreement and the Exchange Date, each of Flowering Scents and Nail Technologies hereby represent, warrant, and covenant to the other and to Sevea as follows:

3.1 **Organization and Good Standing.** Flowering Scents is and will be, on the Exchange Date, a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Nevada. Nail Technologies is and will be, on the Exchange Date, a corporation duly organized, validly existing, and in good standing under the laws of the State of Utah. Each Contributor has all necessary powers and authority and all material licenses and permits required by any governmental authority to own, lease, and operate its properties and to carry on its business as now being conducted. To the best of Contributor's knowledge, the Contributor is not in violation of any federal or state securities laws, or any other laws, rules, or regulations to which the Contributor is or may be subject; the Contributor is duly qualified to do business in every jurisdiction in which the nature of its business or properties makes such qualification necessary.

3.2 **Contributor's Authority and No Breach.** The Contributor further represents and warrants that:

(a) Contributor is the sole owner of the Property, which shall, as of the Exchange Date, be free and clear of all liens, claims, options, encumbrances, and restrictions of every kind and nature.

(b) Contributor has the right, without any consents or approvals (prior or otherwise), except as obtained by the Contributor and furnished to Sevea in accordance with this Agreement, to transfer and assign all of the Property as provided in this Agreement, and Sevea shall,

upon such transfer and assignment, become the sole owner of the Property, free and clear of all liens, claims, options, encumbrances, and restrictions of any and every kind and nature, except as otherwise contemplated herein.

(c) Contributor possesses all requisite power and authority to carry on the Business as it is now being conducted, and is duly qualified to do business and is in good standing in the state in which it is organized, as well as each and every other jurisdiction in which the character and location or the nature of the Business makes such qualification necessary.

**3.3 Further Representations, Warranties, and Covenants of the Contributor.** The Contributor also represents, warrants, and covenants that:

(a) No provision of any instrument to which the Contributor is subject or by which any of the Property is bound, prohibits, limits, or otherwise affects the right, power, and authority of the Contributor to enter into this Agreement and perform any and all of its obligations under this Agreement.

(b) The execution, delivery, and performance of this Agreement by the Contributor, including without limitation the transfer, assignment, and delivery contemplated by and under this Agreement, and the consummation by the Contributor of the transactions contemplated under this Agreement have been duly and effectively authorized and approved by all necessary corporate action on behalf of the Contributor.

(c) The Contributor has delivered (or, within ten (10) days of the execution of this Agreement, shall deliver) to Sevea, as applicable, accurate originals, copies, lists, and descriptions of the following:

(i) All of the Property, as well as (as requested) all evidence of and policies of insurance relating to any or all of the same;

(ii) All of the agreements (formal and informal) to which the Contributor is a party or to which the Property is or may be subject, (collectively, the "Obligations");

(iii) All of the accounts receivable related to the Business for which the Contributor is entitled to receive payment;

(iv) A written list (with explanation) of all rights under or pursuant to any warranties, representations, and guarantees relating to the Property.

(d) There is no litigation, proceeding, or governmental investigation or any claim pending or, to the best of Contributor's knowledge, threatened, against or relating to the Contributor, the Business, or the Property, or against the transactions contemplated by and under this Agreement, and there is no basis known to the Contributor for any such action

(e) The Contributor shall use its best efforts to secure, obtain and make each and every consent, approval, order or authorization of, or registration, declaration, or filing



with, any governmental authority or any other person is required in connection with the execution and delivery of this Agreement, or the consummation of the transactions contemplated under this Agreement, by the Contributor.

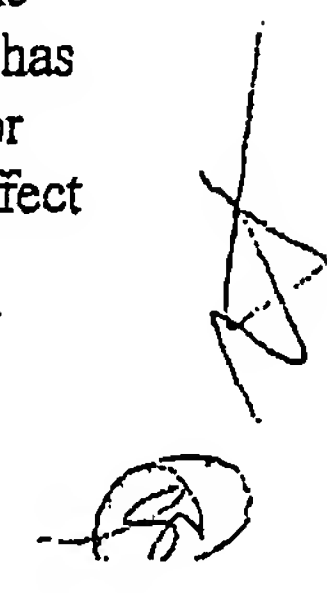
(f) To the best of Contributor's knowledge, the Contributor is now (and will be as of the Exchange Date) conducting the Business and its other businesses and operations in compliance with all laws, rules, and regulations applicable to the Property and the Contributor's Business and operations; and the Contributor shall not have (i) filed a voluntary petition in bankruptcy, (ii) been adjudicated a bankrupt or insolvent, or (iii) filed any petition or answer seeking any reorganization, assignment, composition, readjustment, liquidation, dissolution, or other relief under any federal or state bankruptcy act or under any other applicable federal or state statute, law or regulation affecting creditors' rights generally or otherwise.

(g) Except as otherwise disclosed to Sevea, all insurance premiums, real property taxes, personal property taxes, and other similar taxes, charges, and fees imposed on or with respect to or measured by the Contributor's Business, or any part of the Business (including without limitation the Property), and due and payable by the Contributor as of the date of this Agreement have been paid. The Contributor has no outstanding or unsatisfied deficiency tax liabilities, obligations, or assessments with respect to the Business, or otherwise.

(h) Contributor has all legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated by and under this Agreement. This Agreement has been duly executed and delivered by the Contributor and, together with all instruments and documents executed and delivered by the Contributor at the Exchange, constitute and will constitute legal, valid and binding agreements of the Contributor, enforceable in accordance with their terms.

(i) To the best of Contributor's knowledge, the execution and delivery of the Agreement by the Contributor does not, and the consummation of the transactions contemplated hereby will not conflict with or result in any violation of or default (with or without notice or lapse of time or both), or give rise to a right of termination, cancellation, or acceleration of any obligation or any lien, claim, pledge, charge, security interest, mortgage, or other encumbrance of any kind or nature upon any part or all of the Contributor's Business (including without limitation the Property), under any provision of the organizational or governing documents of the Contributor, or any mortgage, indenture, lease or other agreement, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule, or regulation applicable to the Contributor or any part or all of the Business and/or the Property, except for those landlord's consents required as contemplated in Section 3.3(p) which shall be obtained by the Exchange Date.

(j) Except as expressly provided in this Agreement or as disclosed to Sevea, the Contributor has no liabilities or obligations of any kind, which relate to, are connected with, or could adversely affect the value or operation of any part or all of the Property and/or the Business. Except as expressly provided in this Agreement, the Contributor does not know and has no reasonable grounds to know of any basis for assertion against the Contributor of any claim or liability of any nature in any amounts which relate to, are connected with, or could adversely affect the value or operation of any part or all of the Property and/or the Business.



(k) To the best of Contributor's actual knowledge, all information regarding the Property provided to Sevea is true, complete, and correct, and the records, books, data, and related information related to the Obligations and the Property (collectively, the "Information"), have been maintained in accordance with good business practices. To the best of Contributor's actual knowledge, the Information furnished or made available to Sevea by the Contributor accurately reflect the financial condition and results of operations of any and all matters related to the transactions contemplated under this Agreement for the period or periods covered thereby.

(l) Upon the Exchange the Property shall be subject to no other leases, liens, security interests, or encumbrances except as specifically described in this Agreement and except for any landlord's liens provided for by statute or by any of the Leases.

(m) To the best of Contributor's actual knowledge, the Contributor is in compliance in all material respects with all federal, state, and local laws and regulations respecting labor, employment, and employment practices, terms, and conditions of employment, and wages and hours, and is not engaged in any unfair labor practice. There are no charges or complaints against the Contributor relating to employment or employment practices pending before any court or any governmental body or agency; there is no labor strike or other labor trouble involving the Contributor pending or, to the best of Contributor's actual knowledge, threatened against the Contributor; to the best of Contributor's actual knowledge, no representation question exists respecting the employees of the Contributor; and no grievance which might have a material adverse affect on the Business and/or the Property or any arbitration proceeding arising out of or under any collective bargaining agreement is pending, and to the best of Contributor's actual knowledge, no claim therefor has been asserted or threatened.

(n) To the best of Contributor's actual knowledge, no aspect of the Property does presently, or will at the time of transfer to Sevea, infringe any existing copyright, tradename, trademark, or patent of any third party, or does presently, or will at the time of transfer to Sevea, include use of any improperly acquired valid trade secret of any third party or violate the terms of any agreement to which the Contributor is a party covering use of a trade secret or confidential know-how of any third party.

(o) For each License and Contract delivered to and, pursuant to this Agreement, transferred to Sevea, to the extent material to the Business or as otherwise requested by Sevea, the Contributor shall use its best efforts to assist Sevea, no later than ten (10) days following the Exchange, in obtaining written verification that the parties to the License and Contract (i) consent to the transfer of the same to Sevea, (ii) recognize that Sevea assumes only those liabilities arising or relating to periods from and after the Exchange Date and is not subject to any other liabilities relating to or arising from periods, actions or omissions prior to the Exchange Date, and (iii) confirm that the same is not and will not be, respectively, in default as of the Exchange Date or as a result of the Exchange.

(p) For the Lease delivered to and, pursuant to this Agreement, transferred to Sevea, Nail Technologies shall, by the Exchange Date, obtain written verification that the Lessor under the Leases (i) consents to the transfer of the same to Sevea, and (ii) recognizes that Sevea assumes only those liabilities arising or relating to periods after the

Handwritten signature and initials in the bottom right corner of the page.



Exchange Date and is not subject to any other liabilities relating to or arising from periods, actions or omissions prior to the Exchange Date.

#### ARTICLE 4

##### Representations, Warranties and Covenants of Sevea

Sevea hereby represents and warrants to the Contributor as follows:

4.1 **Organization and Good Standing.** Sevea is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada, and has the corporate power to carry on its business as it is now being conducted.

4.2 **Sevea's Authority.** Sevea further represents and warrants that:

(a) Sevea is not, and by the execution, delivery, and consummation of this Agreement, will not be in default under any material obligation, contract, or agreement to which it is a party.

(b) Sevea has all corporate and legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated by and under this Agreement. The execution and delivery of this Agreement by Sevea and the consummation by Sevea of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on behalf of Sevea. This Agreement has been duly executed and delivered by Sevea and constitutes and will constitute a legal, valid, and binding agreement of Sevea, enforceable in accordance with its terms.

4.3 **Further Representations, Warranties, and Covenants.** In addition, Sevea represents, warrants, and covenants as follows:

(a) The execution, delivery, and performance of this Agreement by Sevea do not and the consummation by Sevea of the transactions contemplated by and under this Agreement will not conflict with or result in any violation of or default (with or without notice or lapse of time or both), or give rise to a right of termination, cancellation, or acceleration of any obligation or any lien, claim, pledge, charge, security interest, mortgage, or the encumbrance of any kind or nature upon any of the assets of Sevea, under any provision of the Articles of Organization and Operating Agreement of Sevea or any mortgage, indenture, lease or other agreement, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule, or regulation applicable to Sevea or its properties or assets.

(b) There is no litigation, proceeding, or investigation pending or, to the best of Sevea's actual knowledge, threatened against Sevea which, if adversely determined, would materially adversely affect the execution, delivery, or performance of this Agreement on the part of Sevea.

80



(c) No consents, approvals, or authorizations of any governmental body or authority (federal, state or local) are required on the part of Sevea in connection with the execution, delivery or performance of this Agreement.

(d) No representation or warranty by Sevea contained in this Agreement contains or will contain any untrue statement of a material fact or omits or will omit any material fact necessary to make the statements contained herein or therein not misleading.

## ARTICLE 5

### Additional Covenants; Limitation on Warranties

**5.1 Additional Covenants of Contributor.** The Contributor hereby agrees that, pending and following the Exchange and except as otherwise consented to or approved by Sevea, in writing:

(a) Prior to the Exchange, Contributor shall not mortgage, pledge, or subject to any lien, charge, claim, or encumbrance any of the Property, or transfer, convey, or lease any of the Property or any of Contributor's rights, titles, or interests therein, except for the sale of inventory in the ordinary course of business.

(b) Prior to the Exchange, Contributor shall conduct the activities of the Business in the ordinary, normal, and customary course and manner, and shall keep proper business and accounting records.

(c) The Contributor shall not in any way interfere with the business and business relationships of Sevea.

(d) The Contributor will use its best efforts to preserve for Sevea the goodwill of the suppliers, vendors, customers, and others having business relations with the Contributor in respect of, directly or indirectly, the Property and the Business, and to maintain all business relationships of the Contributor in connection with the Business.

(e) In the event of any breaches of any covenants, warranties, or representations set forth in this Agreement, which adversely affect the transactions contemplated without limitation in this Agreement, the party making such covenant, warranty or representation shall take such actions as may be necessary and appropriate to indemnify, defend, and hold the other parties hereto harmless from and against any loss, liability, damage, or expense sustained or subject to as a result of the breach or nonfulfillment of any covenant set forth in this Agreement, or any claim against, or liability of, any party to this Agreement which is asserted against the other party or parties, or their respective agents, or employees.

**5.2. No Other Warranties.** EXCEPT AS SPECIFIED IN OR CONTEMPLATED UNDER THIS AGREEMENT, THE ASSETS TO BE TRANSFERRED HEREUNDER ARE TO BE TRANSFERRED IN AN "AS IS" CONDITION, WITHOUT

↓

(5)

EXPRESS OR IMPLIED WARRANTIES, AND SUBJECT TO ALL FAULTS, PROBLEMS, CIRCUMSTANCES AND CONDITIONS AFFECTING THE ASSETS.

## ARTICLE 6

### Conditions Precedent to Sevea's Obligations

All obligations of Sevea under this Agreement are subject to the fulfillment, prior to or at the Exchange, of each of the following conditions (any one or more of which may, in the absolute discretion of Sevea, be waived by Sevea):

- (a) Sevea shall not have discovered and there shall not be any error, misstatement, or omission in the representations and warranties made by the Contributor contained in this Agreement which have a material and adverse effect on the Business or the consideration being paid therefor by Sevea.
- (b) The Contributor shall not (i) have filed a voluntary petition in bankruptcy, (ii) been adjudicated a bankruptcy or insolvent, or (iii) filed any petition or answer seeking any reorganization, assignment, composition, readjustment, liquidation, dissolution, or other relief under any federal or state bankruptcy act or under any other applicable federal or state statute, law or regulation affecting creditors' rights generally or otherwise.
- (c) The representations and warranties of the Contributor contained in this Agreement shall be deemed to have been made again at and as of the Exchange Date (except that such representations and warranties may reflect the consummation of any transactions consented to or approved in writing by Sevea) and shall then be true, complete, and accurate; and the Contributor shall have performed and complied with by it prior to or at the Exchange.
- (d) At the Exchange Date, no suit, action, appraisal, or other proceeding shall be pending or threatened before any court or other governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by and under this Agreement.
- (e) Sevea shall have reviewed and approved of the Property to be transferred and assigned to Sevea under this Agreement, as well as any and all other information, documents, and instruments to be transferred and delivered to Sevea by the Contributor under this Agreement.
- (f) The closing of the transactions contemplated by the Agreement shall not be in violation of or contravene any law, rule, regulation, order, judicial decision or the provisions of any agreement or document to which the Contributor or Sevea is a party or may be bound.
- (g) The transactions contemplated by and under this Agreement shall have been authorized by all necessary and appropriate actions on the part of Sevea and the



Contributors and shall be treated as simultaneous transactions regardless of the time required or counterparts executed.

(h) The Contributor shall have delivered the consent and verification of Lessor as referred to in Subsection 3.3(p), above.

(i) Both Flowering Scents and Nail Technologies shall have complied with all of the terms and conditions of this Agreement.

## ARTICLE 7

### Miscellaneous

#### 7.1 Survival of Warranties and Representations; Performance.

Notwithstanding any investigation conducted before or after the Exchange, and notwithstanding any actual or implied knowledge or notice of any facts or circumstances which Sevea may have as a result of such investigation or otherwise, Sevea shall be entitled to rely upon the warranties, representations, and covenants of the Contributor in this Agreement, and the obligations of the Contributor with respect to the warranties, representations, and covenants of the Contributor in this Agreement shall survive the Exchange Date. All representations and warranties in this Agreement or in any written statement delivered to Sevea pursuant to this Agreement shall be true, complete, and correct in all material respects on and as of the Exchange Date as though such representations and warranties were made on and as of such date. In this connection, the Contributor shall have in all material respects performed, satisfied, and complied with all covenants and agreements, and satisfied all conditions that the Contributor is required to perform, comply with, or satisfy, on, before or after the Exchange Date.

Further, notwithstanding any investigation conducted before or after the Exchange, and notwithstanding any actual or implied knowledge or notice of any facts or circumstances which the Contributor may have as a result of such investigation or otherwise, the Contributor shall be entitled to rely upon the warranties, representations and covenants of Sevea in this Agreement, and the obligations of Sevea with respect to the warranties, representations, and covenants of Sevea in this Agreement shall survive the Exchange Date. All representations and warranties in this Agreement or in any written statement delivered to the Contributor pursuant to this Agreement shall be true, complete and correct in all material respects on and as of the Exchange Date as though such representations and warranties were made on and as of such date. In this connection, Sevea shall have in all material respects performed, satisfied and complied with all covenants and agreements, and satisfied all conditions that Sevea is required to perform, comply with, or satisfy, on, before, or after the Exchange Date.

7.2 **Access to Property and Information.** From and after the date of this Agreement, the Contributor shall furnish or cause to be furnished to Sevea and its representatives all of the data and information concerning the Property as Sevea may reasonably request.

7.3 **Termination for Default or Breach.** Flowering Scents, Nail Technologies, and/or Sevea may by notice to the other parties given in the manner provided in this Agreement, at any time prior to the Exchange or as otherwise provided in this Agreement, terminate this

81

Agreement if (i) default shall be made by any other party in the observance or in the due and timely performance of any covenants and agreements contained in this Agreement, and any such default shall not have been fully cured on or before the Exchange after written notice specifying the alleged default, (ii) the transactions contemplated by and under this Agreement shall not be consummated for any reason by the Exchange Date, or (iii) any representation or warranty given by another party shall be breached. Upon any such termination, except as otherwise set forth herein to the contrary, the parties shall have no rights, liabilities or obligations, continuing or otherwise, against the other party to or any other party under this Agreement. Such right of termination shall be in addition to any and all rights and remedies available to such terminating party under this Agreement and applicable law in the case of a default by the other party. Notwithstanding anything to the contrary herein, in the event one of the Contributors is the defaulting party, then the other Contributor shall thereafter retain the rights set forth under paragraph 7.16 hereof.

7.4 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly delivered if delivered in person or if hand delivered, sent by first class mail, postage prepaid, certified or registered mail, return receipt requested, or nationally-recognized courier service:

If to the Contributor, to:

Flowering Scents, LLC  
MICHAEL MACRIS  
508 CARLTON WAY PL  
L.V. N.V. 89144

with a copy to:

John A. Snow  
Van Cott, Bagley, Cornwall & McCarthy  
50 South Main, Suite 1600  
Salt Lake City, UT 84144

AND

Artificial Nail Technologies, Inc.  
1076 WALBURN AVE  
LEYTON, VT 84040

with a copy to:

Artificial Nail Technologies, Inc  
2550 S. Decker Lake Blvd #1  
West Valley City, UT 84119

If to Sevea, to:

Sevea International, Inc.  
MICHAEL MACRIS





508 CARLTON WAY PL  
L.A. N.W. 89144

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

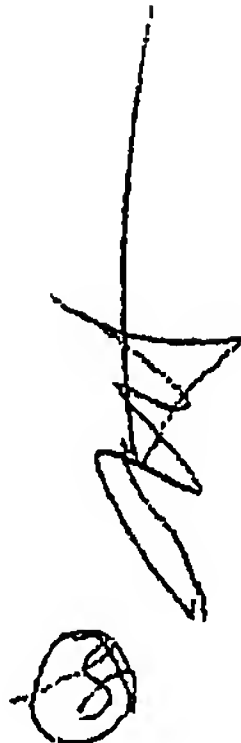
If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered. If sent by mail in the form specified herein, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective two (2) business days after deposited in the United States mail or upon actual receipt, whichever first occurs. If sent by a nationally recognized air courier in the form specified in this Agreement, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective one (1) business day after deposited with such overnight courier or upon actual receipt, whichever first occurs. Either party to this Agreement may change the address to which notices and other communications under this Agreement are to be directed by giving written notice of such change to the other party in the manner provided in this Agreement.

**7.6 Expenses and Fees.** Except as otherwise expressly provided in this Agreement, each party to this Agreement shall pay its own costs and expenses (including without limitation reasonable attorneys' and reasonable accountants' fees) incurred in the preparation and execution of and the performance under this Agreement.

**7.7 Commissions, Etc.** The Contributor represents and warrants to Sevea and Sevea represents and warrants to the Contributor that no broker or finder has been engaged by the respective parties with respect to this Agreement, is in any way connected with this Agreement or any of such transactions, or is entitled to any fee or commission as a result of this Agreement or any of the transactions contemplated by or under this Agreement.

**7.8 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the undersigned parties and their respective legal representatives, successors and permitted assigns. Sevea shall have no right to assign its interest in this Agreement without the prior written consent of Contributor.

**7.9 Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties with respect thereto. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all parties to this Agreement. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed, in writing, by the party making the waiver.





7.10 **Counterparts.** This Agreement may be executed by facsimile and simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.11 **Severability.** In the event that any provision of this Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement.


7.12 **Further Assurances.** Each party agrees to execute and deliver all documents and to perform all further acts as may be reasonably necessary to carry out the provisions of this Agreement. Further, the Contributor covenants and agrees to execute and deliver such other and further instruments of assignments, transfer and conveyance of any of the Obligations and the Property, and of all permits, licenses and other governmental authorizations applicable to the Property and/or the Business (insofar as the same are assignable) as Sevea may reasonably require, whether on or after the Exchange Date, to evidence or perfect Sevea's right, title and interest in and to the Obligations, and the Property. In the event any of the Licenses and Contracts, at Sevea's request, cannot validly be assigned by the Contributor to Sevea at or before the Exchange, Sevea shall have the option to waive the conditions of Exchange in respect of such unassignability. In any event, the Contributor shall use its best efforts, until such time as the Contributor obtains any necessary consent to assignment of any thereof, to

(i) maintain the same in full force and effect for its duration,

(ii) provide to Sevea the full benefit thereof, and

(iii) accord to Sevea all of the Contributor's rights and privileges thereunder and exercise all such rights for the benefit and at the direction of Sevea without additional cost or expense to Sevea on account thereof, provided that Sevea performs or tenders to the Contributor performance of all of the obligations of the Contributor (other than ministerial or administrative acts which by their nature can reasonably be performed only by the Contributor) required by the terms thereof to avoid a material breach thereof by the Contributor. In the event any of the Licenses and Contracts cannot validly be transferred to Sevea at or before the Exchange, and such Licenses or Contracts are identified and set forth in separate writing signed by the parties at the Exchange Sevea shall indemnify, defend and hold Contributor harmless from any and all liabilities, claims, losses and/or damages, including but not limited to attorneys' fees and costs incurred in connection therewith, which may be incurred by Contributor as the result of Sevea's failure after the Exchange Date to perform the obligations of Contributor under such Licenses and Contracts.

7.13 **Best Efforts.** The parties hereto agree to use reasonable diligence and to exercise their best efforts to fulfill their respective obligations under this Agreement at all times that this Agreement is in effect.



7.14 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada.

7.15 **Effective Date of Agreement.** For all purposes of this Agreement this Effective Date shall be February 1, 2006, notwithstanding the actual date of execution by the parties. This applies to all representations, covenants and warranties found within this Agreement.

7.16 **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, and any other fees and costs incurred in the action or proceeding, in addition to any other relief to which such party may be entitled.

7.17. **Fiduciary Duties.** The parties agree that no fiduciary duties or similar duties are owed one to the other solely in connection with the negotiation and execution of this Agreement or the formation of Sevea. Except as provided in this agreement, all such duties shall otherwise apply as provided by law.

7.18 **Indemnification.** With respect to any and all claims, demands, losses, costs (including court costs and costs of appeal), expenses, obligations, fees (including reasonable attorneys' fees), liabilities, damages, recoveries, and judgments, which arise, result from or relate to any breach of or failure to perform any of the representations, warranties, covenants, or agreements contained in this Agreement, or which arise or result from liabilities, obligations, or commitments (the "Liabilities") of a party to this Agreement (the "Indemnitor"), which are not expressly assumed by any other party to this Agreement, or contemplated by this Agreement, the Indemnitor hereby agrees to, and hereby does, further indemnify, defend, and hold harmless any other party to this Agreement from, against, and in respect of the Liabilities.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

**CONTRIBUTOR:**

FLOWERING SCENTS, LLC,  
a Nevada limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*Michael W. M...*  
MANAGER

ARTIFICIAL NAIL TECHNOLOGIES, INC.  
a Utah corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*Scott Hill*  
President

①

SEVEA:

Sevea International, Inc., a Nevada corporation

By: Michael W. Maer  
Its: DIRECTOR / AGENT

(57)

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EXHIBIT "A"

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(Copy of Lease)

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**EXHIBIT "B"**

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(List and Description of Inventory and Equipment)

Part 1 - Inventory



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**EXHIBIT "B"**

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Part 2 – Other Personal Property

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**EXHIBIT "C"**

---

(List and Description of Licenses and Contracts)

---

**EXHIBIT "D"**

---

(List of Excluded Assets)

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**EXHIBIT "F"**

---

(Form of Bill of Sale and Assignment)

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**EXHIBIT "G"**

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(Form of Assignment of Intellectual Property)



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**EXHIBIT "H"**

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(Form of Assignment of Licenses and Contracts)

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EXHIBIT "I"

---

(Form of Assignment of Lease)

"g"  
(Consent to Assignment of Lease)

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## EXHIBIT "B"

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(List and Description of Inventory and Equipment)  
Part 1 - Inventory Artificial Nail Technologies

Inventory on Hand (Approximated)

Molding Guns	10
Mold Cartridge	92
Mold Distribution Tips	280
Nail Billets (5-Finger)	424
3gram Glue	4
Clear Top Coat	900
Pink Top Coat	700
Peach Top Coat	1000
Nail Stands	125
Pry Stick	150
Nail Billets	500

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## EXHIBIT "B"

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### Part 2 - Other Personal Property

Artificial Nail Technologies, Inc. Patents  
Issued  
United States Patent Nos. 5,968,302 and  
6,196,234

#### Other Patent Applications Pending

US 10/708065  
US 10/710959  
US 10/710961  
US 10/710962  
US 10/710971  
US 10/711019  
US 11/162430  
US 11/162437  
US 11/162439

PCT US2005/003854  
PCT US2005/003855  
PCT US2005/003831  
PCT US2005/004829

Taiwan 94104242

#### Other Property

(3) Genex Camera Systems  
(1) Tumbler  
(1) Orange Couch  
(1) Orange Chair  
(4) Room Dividers  
(1) Coffee table (front area)  
(1) Ottoman Chair  
(1) Copy of 3D Studio Max 7  
(2) Copies of Windows XP Professional  
(1) Prototype CNC Machine  
(1) Laptop - Jason has this  
(1) Prototype laser system  
(1) Conference Table

(14) Tall Leather Chairs  
(4) Graphic Workstations  
(2) Management Desks (W/ Hutch)  
(1) Executive Desk - Receptionist is  
using  
(2) Administrative Desk  
(11) Comfort Chairs  
(1) Phone System (Meridian - M8X24  
DS)  
(7) Meridian Phones  
(1) Meridian Programmable Phone  
(3) Computer System (Including  
monitor, mouse, keyboard & Speakers)  
In use by Craig, Luann and the  
Accounting Computer  
(1) Copy Machine (EP 3170)  
(1) Fax Machine (Sharp FO-5700)  
(3) Filing Cabinets  
(1) Server Blade - Located as Jason's  
old Desk (thin black blade - non DELL)  
(2) HP LaserJet 1100 - 1 attached to  
accounting computer, 1 in back  
(5) Tall Exhibits (1) is paid for and on  
hand with a balance forward to be  
applied to the other units, (4) remaining  
at Absolute Exhibits  
(1) JET Software Compiler  
(1) Doug Computer & Monitor & XP  
(1) Firewall  
(1) Air Gun  
(3) Graphic/Production Workstations w/  
XP and Monitors  
(1) Board Stamp Kit  
(3) 3D Max Licenses  
(1) Programmers Station & Monitor - In  
warehouse used as Infotrax Terminal  
(1) Compressor  
(1) Evaporator  
(2) Dragonfly Cameras

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EXHIBIT "D"

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(List of Excluded Assets)

Anything not expressly listed in the schedules



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EXHIBIT "E"

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(Distribution of Stock)

Artificial Nail Technologies, Inc.	10,000,000
Flowering Scents, LLC	5,000,000

---

EXHIBIT "B"

---

(List and Description of Inventory and Equipment)  
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US 10/710971  
US 10/711019  
US 11/162430  
US 11/162437  
US 11/162439

PCT US2005/003854  
PCT US2005/003855  
PCT US2005/003831  
PCT US2005/004829

Taiwan 94104242

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(11) Comfort Chairs  
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(1) Copy Machine (EP 3170)  
(1) Fax Machine (Sharp FO-5700)  
(3) Filing Cabinets  
(1) Server Blade – Located as Jason's  
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(1) Programmers Station & Monitor – In  
warehouse used as Infotrax Terminal  
(1) Compressor  
(1) Evaporator  
(2) Dragonfly Cameras

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EXHIBIT "D"

---

(List of Excluded Assets)

Anything not expressly listed in the schedules

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EXHIBIT "E"

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(Distribution of Stock)

Artificial Nail Technologies, Inc.	10,000,000
Flowering Scents, LLC	5,000,000



EXHIBIT "H"

Robert Fox

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Subject: FW: ant

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**From:** James Farmer [mailto:jfarmer@vancott.com]  
**Sent:** Monday, April 17, 2006 5:59 PM  
**To:** Matt Horlacher  
**Subject:** RE: ant

That would be my take – the assignments were part of the underlying Sevea/ANT transaction.

---

**From:** Matt Horlacher [mailto:MHorlacher@hollandhart.com]  
**Sent:** Monday, April 17, 2006 5:52 PM  
**To:** James Farmer  
**Subject:** RE: ant

Thanks for the quick reply. So were the assignments you just sent over part of this transaction, i.e., they are now void for lack of consideration? There does not appear to be any other independent consideration for them.

I am meeting with Justin tomorrow and will let you know if further questions arise (as I'm sure they will).

Matt

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**From:** James Farmer [mailto:jfarmer@vancott.com]  
**Sent:** Monday, April 17, 2006 5:35 PM  
**To:** Matt Horlacher  
**Subject:** RE: ant

Matt,

Attached is a copy of the agreement that was executed at some point by the parties – I had a secretary type the document onto our system for editing when that point in time comes. There was never any money or shares exchanged, and the exhibits were never reduced to writing. Also attached are the letter on behalf of Steffen, and two assignment documents, assigning the issued patents and applications to Sevea. These documents are about all that I have at the moment.

It is my understanding that the deal was never consummated – no meeting of the minds, two ships passing by each other on a stormy night.

Feel free to call tomorrow (Tuesday) to discuss.

Jim

---

**From:** Matt Horlacher [mailto:MHorlacher@hollandhart.com]  
**Sent:** Monday, April 17, 2006 4:55 PM  
**To:** James Farmer  
**Subject:** RE: ant

Jim – I am working on getting ANT documents from Justin, but in the meantime he has asked that I request from

7/21/2006

you all documentation related to the Sevea transaction. Is that too much of a problem? I am fine with electronic copies, faxes (877-665-5870), hard copies, a CD, or whatever is easiest. If you have the demand letters from Ronald Steffen's attorney, or anything else related to this deal that you can disclose, that would help too.

Also, is Sevea's position that the ANT deal never closed because conditions to closing were not met? My notes say that the Sevea money never transferred, so does Sevea believe that nothing was consummated, and we just need to terminate the existing agreements?

Thanks.

Matt

EXHIBIT "I"

JAMES R. FARMER  
Direct Dial: 801.237.0354  
email: jfarmer@vancott.com

50 South Main Street, Suite 1600  
Salt Lake City, Utah 84144-0450  
801.532.3333  
Fax: 801.534.0058  
www.vancott.com

June 20, 2006

VIA HAND DELIVERY

Mr. Matt Horlacher  
HOLLAND & HART  
60 E. South Temple, Suite 2000  
Salt Lake City, Utah 84111

**Re: Sevea International, Inc.**

Dear Matt:

As you are aware, this law firm has been retained by Sevea International, Inc. and its principles to represent them with regard to the Asset Contribution Agreement ("ACA"), executed on or about February 28, 2006 between Artificial Nail Technologies, Inc. ("Artificial Nails"), Flowering Scents, LLC ("Flowering Scents") and Sevea International, Inc ("Sevea") and related matters. Contrary to your prior communications, be advised that Sevea expressly denies that the parties have terminated the ACA and, at this point, plan to proceed under the express terms of the ACA. As set forth in more detail below, our clients intend to seek actual and punitive damages as a result of the fraudulent misrepresentations made by the principles of Artificial Nails prior to and following execution of the Agreement.

More specifically, the misrepresentations were made by Mr. Justin Williams and Mr. Scott Nielson to fraudulently induce Flowering Scents and Sevea to enter the ACA. Williams and Nielson engaged in similar misrepresentations to fraudulently induce Mr. Jerry Saxton to invest substantial sums in Sevea pursuant to the Private Placement Memorandum ("PPM") dated on or about February 27, 2006. The misrepresentations implicate, *inter alia*, the anti-fraud securities provisions promulgated under both Utah law and federal law, particularly Utah Code Ann., § 61-1-1 et seq. (the "Utah Securities Act") and Section 10(b) of the Securities Exchange Act of 1934 ("Rule 10b-5" as promulgated pursuant to the Act). Violations of these provisions are directly attributable to each of Williams and Nielson and also to Ms. Brooke Horan. We explain these violations with additional specificity below.

First, Section 61-1-1 of the Utah Securities Act makes it unlawful "for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to: (1) employ any device, scheme, or artifice to defraud; (2) make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the



Mr. Matt Horlacher  
HOLLAND & HART  
June 20, 2006  
Page 2

statements made, in light of the circumstances under which they are made, not misleading; or (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person." The history of Williams' and Nielson's solicitation of Flowering Scents and Mr. Michael Macris to execute the ACA and, more particularly, their solicitation of Saxton to invest an initial \$250,000 into Sevea is replete with untrue statements and material omissions of fact. For example, it is not disputed that the patent portfolio contemplated in both the ACA and PPM transactions was considered of paramount value. The portfolio contains two issued patents and several patent applications pending in the United States Patent & Trademark Office and Taiwan. The pending applications are considered critical to Sevea, as the disclosure contained therein describes the core technology employed by Artificial Nails to manufacture the nail products. Simply put, the patent portfolio was the essence of the consideration provided Sevea in the ACA and a core inducement to Saxton to invest money in Sevea pursuant to the PPM. Nielson's letter to Saxton, dated March 8, 2006, wherein specific reference is made to the ACA and the patent portfolio provides compelling evidence of the importance of the portfolio to the parties here involved.

Following execution of the ACA and following Saxton's investment of \$250,000 in Sevea, Macris and Saxton discovered that the technology employed by Artificial Nails to manufacture nail products – and, hence, the bulk of the disclosure in the pending patent applications – had been featured on a publicly televised broadcast in 2002. This very public disclosure, occurring at least one year prior to the filing of the patent applications now pending, has the very real potential of rendering the applications worthless in light of 35 U.S.C. § 102. In addition, any patent potentially issuing from one or more of the pending applications is very likely unenforceable due to inequitable conduct or fraud on the patent office committed by Nielson for failing to disclose the television broadcast. It is our understanding that Nielson, at the time he drafted and filed the earliest applications in 2004, realized the public disclosure was pertinent to patentability, but nevertheless ignored his duty of candor and intentionally withheld evidence of the disclosure from the patent office. It is further our understanding that each of Williams, Nielson and Horan, at the time of the ACA and PPM transactions, realized and understood that the television broadcast in 2002 had the very real potential of rendering the patent applications worthless and any patents actually issuing therefrom unenforceable.

Section 61-1-22 of the Utah Securities Act provides that a person who offers or sells a security in violation of the Act "is liable to the person selling the security to or

Mr. Matt Horlacher  
HOLLAND & HART  
June 20, 2006  
Page 3

buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at 12% per year from the date of payment, costs and reasonable attorney's fees." Id. § 61-1-22(1)(a) (emphasis added). In addition, the party violating Section 61-1-22 may be liable for punitive or treble damages based on the consideration paid. Id. § 61-1-22(1). The failure by Williams, Nielson and Horan to disclose the status of the pending patent applications constitutes an omission of a material fact in connection with the PPM and the \$250,000 investment in Sevea made by Saxton. Each of Williams, Nielson and Horan are, therefore, potentially liable for return of Saxton's entire investment, trebled, together with interest, costs and reasonable attorney's fees. The damage award could expose these individuals to joint and several liability in excess of \$1,000,000.

Second, Rule 10b-5 makes it similarly "unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, ... to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading ...." Here, Nielson's letter to Saxton, dated March 8, 2006, satisfies the requirement that an instrument of interstate commerce be used in the misrepresentation or omission, as do several telephone calls that crossed state lines. The analysis under Rule 10b-5 is therefore essentially identical to the analysis outlined above, with the end result being substantial exposure for each of Williams, Neilson and Horan for their intentional failure to apprise Saxton of the facts surrounding the pending patent applications. While Saxton has yet to decide whether to pursue his claims, we feel it important for your client to understand that Saxton's claims based on the foregoing facts, which can hardly be characterized as in dispute, exposes your client to a damage award in excess of \$1,000,000.

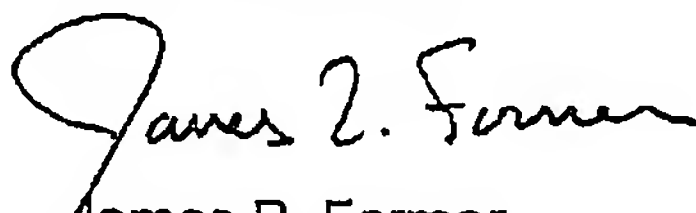
Third, while the focus of the foregoing is on state and federal securities laws arising from misrepresentations made in securing Saxton's investment pursuant to the PPM, your client should also be aware of the potential for substantial exposure under state or common law theories arising from the same and further material misrepresentations. Specifically, the misrepresentations made by Williams, Nielson and Horan as discussed above constitute fraud or negligent misrepresentation, exposing your client to all reasonable damages resulting from the misrepresentations, together with an award of punitive damages. Your client has contributed substantially to several material breaches of the ACA, including breach of the implied covenant of good faith and fair dealing. Breach of the ACA exposes your client to all reasonable

Mr. Matt Horlacher  
HOLLAND & HART  
June 20, 2006  
Page 4

damages, together with all attorneys' fees and costs incurred to enforce the ACA or because of any misrepresentation made in connection with any of the provisions of the ACA. The substantial misrepresentations made through omission and otherwise during the process of negotiating the ACA undoubtedly exposes your client to both compensatory and punitive damages under any of the theories set forth above.

The Utah Securities Act, Rule 10b-5 and various common law theories provide Sevea, Macris and Saxton with a variety of remedies against Artificial Nails, Williams, Neilson and Horan. While Macris and Saxton would be willing to attempt to resolve the current dispute short of litigation, your client must understand that patience is wearing thin. Both Macris and Saxton have invested large sums of money into Sevea on their good faith understanding that the circumstances surrounding Artificial Nails, the capacity to manufacture nail products, and the value of the intellectual property were as represented. As time passes, it becomes increasingly apparent that many of the circumstances were not as represented. To put this matter to rest, we are prepared to entertain a very substantial offer of settlement in the form of a cash payment from your client to compensate Messrs. Macris and Saxton for this loss and damage. Because of time constraints, the offer must be received within 48 hours of your receipt of this letter. We strongly encourage your client to resolve this matter without court intervention. If the matter is not resolved quickly, we will file a complaint to protect our clients' rights.

Very truly yours,



James R. Farmer  
Van Cott, Bagley, Cornwall & McCarthy

JRF:jw

cc: Michael Macris  
Jerry Saxton  
John A. Snow

EXHIBIT "J"

ARTIFICIAL NAIL TECHNOLOGIES, INC.

July 21, 2006

Flowering Scents, LLC  
Michael Macris  
508 Carlton Kay Pl.  
Las Vegas, NV 89144

John A. Snow  
Van Cott, Bagley, Cornwall & McCarthy  
50 South Main, Suite 1600  
Salt Lake City, UT 84144

Sevea International, Inc.  
Michael Macris  
508 Carlton Kay Pl.  
Las Vegas, NV 89144

RE: Termination of Asset Contribution Agreement

Gentlemen:

This notice addresses the Asset Contribution Agreement, entered into on or about February 28, 2006 (the "ACA") by and among Sevea International, Inc. ("Sevea"), Flowering Scents, LLC ("FS"), and Artificial Nail Technologies, Inc. ("ANT").

We note that in correspondence dated June 20, 2006, from Sevea's and FS's attorney, Jim Farmer of Van Cott, Bagley, Cornwall & McCarthy, Mr. Farmer asserts that "Sevea expressly denies that the parties have terminated the ACA[.]" Of course, Sevea's current position completely contradicts its and FS's prior position that they terminated the ACA pursuant to Section 7.3, which was communicated to ANT on numerous occasions by representatives of both Sevea and FS.

As but one example, Jerry Saxton's e-mail of May 2, 2006 to ANT, together with its attachments, maintains that "Sevea exercised its right under Article 7 of the Asset Contribution Agreement to terminate the same." Moreover, your counsel indicated as far back as April of this year the deal was never consummated and was in fact dead.

Nevertheless, and notwithstanding the inconsistency of Sevea's prior position with its current position – the sole purpose of which appears to be to have any ground, however flimsy, to rationalize its holding onto ANT assets for which it has never paid anything – please be advised that ANT, to the extent that the ACA



was not previously terminated, hereby terminates the ACA pursuant to Section 7.3(ii), as the transaction contemplated by the ACA was never consummated by the Exchange Date or any other date, and ANT has not agreed to extend the Exchange Date as is required pursuant to Section 2.1 of the ACA.

Please also be aware that Sevea, as the defaulting party under 7.16 of the ACA, given Sevea's failure to ever deliver the 10,000,000 shares to which ANT is entitled, is responsible for any legal fees that ANT incurs in addressing Sevea's default and misconduct.

Now that any ambiguity about termination of the ACA has been removed, we direct Sevea and FS to immediately return all Assets, as that term is defined in the ACA, to ANT. This includes all documents, records and other items belonging to ANT, including all documentation and information relating to the patents and patent applications.

We also direct Sevea and FS to provide an accounting of all monies, proceeds or any other sums received by Sevea, FS or any other party relating to the Assets, and to pay such amounts directly to ANT.

Failure to comply with this letter immediately will result in legal action.

This letter should not be construed in any way as a waiver of ANT's claims against Sevea and other for their unlawful detainer and use of the Assets, including without limitation, ANT's trademarks, patents, equipment, and other property.

ARTIFICIAL NAIL TECHNOLOGIES, INC.



Justin Williams, Director

## ASSET CONTRIBUTION AGREEMENT

(Flowering Scents, LLC  
Artificial Nail Technologies, Inc.)

THIS ASSET CONTRIBUTION AGREEMENT (the "Agreement") is made and entered into as of the 28th day of February 2006 and made effective as of February 1, 2006 ("Effective Date"), by and between SEVEA INTERNATIONAL, INC., a Nevada corporation ("Sevea"), FLOWERING SCENTS, LLC, a Nevada limited liability company ("Flowering Scents"), and ARTIFICIAL NAIL TECHNOLOGIES, INC., a Utah corporation ("Nail Technologies") (Flowering Scents and Nail Technologies are collectively referred to as the "Contributor").

### RECITALS

WHEREAS, Flowering Scents provides certain services relative to personal products with individualized and specialized scents (the "FS Business");

WHEREAS, Nail Technologies provides certain products and services related to fingernail products (the "NT Business") (the FS Business and the NT Business are collectively referred to herein as the "Business");

WHEREAS, Flowering Scents desires to contribute substantially all of its assets and Nail Technologies desires to contribute substantially all of its assets to Sevea in exchange for stock in Sevea. Immediately after the exchange, Flowering Scents and Nail Technologies shall be in control, as defined in Internal Revenue Code ("IRC") Section 368(c) or 368(d), of Sevea. The exchange is taking place in order to provide ongoing services to consumers through the synergistic operation of the FS Business and the NT Business, all on the terms and conditions set forth below; and

NOW THEREFORE, to that end and in consideration of the mutual covenants, agreements, representations, and warranties made in this Agreement, and the mutual benefits to be derived from this Agreement, the parties to this Agreement agree as follows:

### TERMS

#### ARTICLE 1

##### Contribution of Assets; No Liabilities

1.1 **Contribution of Assets.** Subject to the terms and conditions of this Agreement, on the "Exchange Date" (as defined below), the Contributor hereby agrees to transfer and assign to Sevea, and Sevea agrees to accept from the Contributor, free and clear of all liens, claims, security interests and rights of others, all of the Contributor's right, title and interest in and

to substantially all of the assets of the Contributor related to the Business, including without limitation the assets set forth below (collectively, the "Assets").

(a) Lease. All right, title and interest of Nail Technologies in and to the Leases for its retail location in Salt Lake City, Utah (the "Lease"), as more particularly described on attached Exhibit "A", together with any security deposit and other prepaid amounts paid by Nail Technologies under the Lease. ← 5p

(b) Inventory. All of the product inventory, including merchandise, of the Business as of the Exchange Date and described in Part 1 of attached Exhibit "B" (collectively, the "Inventory").

(c) Other Personal Property. All necessary business furnishings, equipment, leasehold improvements, supplies, and materials, as well as all other personal property used in connection with the operation of the Business described in Part 2 of attached Exhibit "B" (collectively, the "Equipment").

(d) Licenses and Contracts. To the extent transferrable, all rights of the Contributor under all licenses (under which the Contributor is a licensee), permits, authorizations, approvals, consents, contracts, personal property leases, and similar arrangements owned by the Contributor or to which the Contributor is a party as of the Exchange Date or used at any time prior to the Exchange Date in connection with the operation of the Business including those licenses and contracts listed in attached Exhibit "C" (collectively, the "Licenses and Contracts").

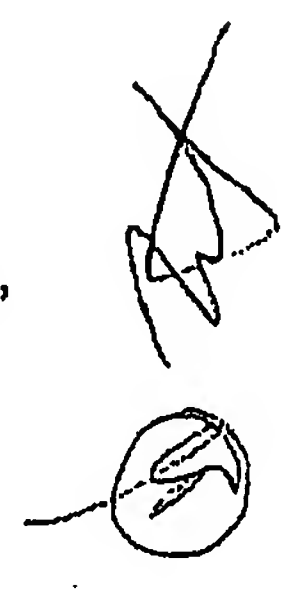
(e) Intellectual Property. All proprietary information with respect to any of the Assets, all priorities and rights associated with any of the Assets, and all other intellectual property rights relating to or associated with the Business, including without limitation trade secrets, or to the sale or use of all products now or previously produced by the Contributor, including, without limitation, all products sold under any trade names of the Contributor and the Business (collectively, the "Intellectual Property"), including without limitation the following:

(i) All financial information, price lists, supplier lists, books and records, data, files, records, notebooks, software and other computer records, if any, documentation, and similar information relating in any way to all or part of the Business or the Assets.

(ii) All customer lists of the Contributor relating to products at any time produced or supplied, or services at any time rendered, by the Contributor in connection with the Business to the extent actually maintained by Contributor (collectively, the "Customer Lists").

(f) Other Intangibles. All documents, instruments, accounts, chattel paper and general intangibles not otherwise described in this Section 1.1 and used in connection with the operation of the Business.

The Assets, the Leases, the Inventory, the Other Personal Property, the Licenses and Contracts, the Intellectual Property, and the Other Intangibles hereinafter collectively referred to as the "Property."

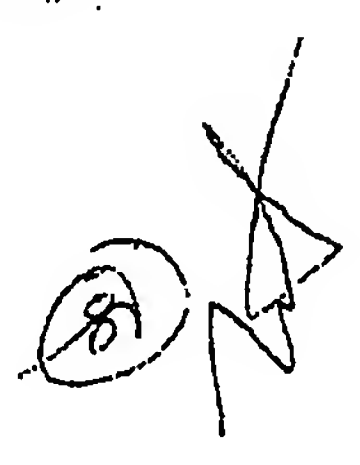


1.2 **Excluded Assets.** The Excluded Assets are more particularly listed and described on attached Exhibit "D".

1.3 **Consideration.** As consideration for the transfer and assignment of the Property by Flowering Scents to Sevea, together with the covenants set forth in this Agreement, Sevea agrees to issue to Flowering Scents Five Million (5,000,000) shares of Common Stock in Sevea (the "FS Consideration") in exchange for the Property. As consideration for the transfer and assignment of the Property by Nail Technologies to Sevea, together with the covenants set forth in this Agreement, Sevea agrees to issue to the shareholders of Nail Technologies Ten Million (10,000,000) shares of Common Stock in Sevea (the "NT Consideration") in exchange for the Property. The shares of stock in Sevea issued pursuant hereto shall be issued at the Exchange Date in the names and number of shares more particularly described on attached Exhibit "E".

The parties understand, acknowledge and agree that the Consideration constitutes adequate consideration for and in respect of any covenant, agreement or action taken or contemplated to be taken by the terms of this Agreement, including without limitation, the other documents referenced in Section 2.2, below. In addition, the parties understand, acknowledge and agree that this exchange of Property for stock in Sevea is intended to qualify as a tax-free transfer pursuant to IRC Section 351.

1.4 **Liabilities to be Transferred and the Responsibilities of the Parties.** Flowering Scents and Nail Technologies each shall retain and continue to be liable for all of their respective liabilities. Sevea shall not assume or be deemed to have assumed any liabilities of Flowering Scents and/or Nail Technologies, including, without limitation, (i) any obligation or liability the existence of which constitutes a breach of any representation or warranty made by the Contributor in this Agreement, (ii) any obligation to provide indemnification for breach of contract, infringement, or any other event occurring or relating to a period prior to the Exchange Date (as defined below) or the consummation of the transactions under this Agreement by the Contributor, (iii) any obligation to pay or reimburse for goods received by or services performed or rendered prior to the Exchange Date, or (iv) any federal, state, county, or local income tax relating to the Contributor, (v) any liability of the Contributor, incurred or relating to any time prior to the Exchange Date, for any federal, state, county, local or other property taxes, or any other taxes of any kind or description with respect to the Property and/or the Contributor's ownership and operation of the Property or the Business, or any contracts relating to the Property or the Business, (vi) any debts, promises to pay, or other obligation or liability, written or oral, and (vii) any other liability (including but not limited to any litigation) of Contributor, except to the extent disclosed or assumed by Sevea, whether incurred before or after the Exchange Date. Sevea shall not and does not assume or be deemed to have assumed, and Flowering Scents shall at all times indemnify and hold Sevea harmless from and against, any and all liabilities and obligations of Flowering Scents arising prior to or on the Exchange Date. Sevea shall not and does not assume or be deemed to have assumed, and Nail Technologies shall at all times indemnify and hold Sevea harmless from and against, any and all liabilities and obligations of Nail Technologies arising prior to or on the Exchange Date.





## ARTICLE 2

### EXCHANGE

2.1 **The Exchange; Transfer of Property.** The transfer and assignment of the Property contemplated by this Agreement (the "Exchange") shall be held at 2550 S. Decker Lake Blvd #1, West Valley City, Utah 84119, at the hour of 10:00 a.m. on or before the 1st day of March 2006, or at such date, such place and at such time as the parties may mutually agree (the "Exchange Date"); and provided that the date upon which the Exchange actually takes place shall be deemed and considered the "Exchange Date."

2.2 **Actions to be Taken at Exchange: Exchange Covenants.** At the Exchange, the following shall occur, each of which shall be considered to take place simultaneously, and each of which shall be a condition precedent to the other:

(a) Sevea shall execute and deliver to the Contributor, and the Contributor shall execute and deliver to Sevea, three fully executed originals of this Agreement and fully executed Common Stock certificates as noted in Section 1.3, above.

(b) The Contributor and Sevea, as applicable, shall execute and deliver the following (collectively with this Agreement, the "Transaction Documents"):

(i) Bill of Sale and Assignment of Property, substantially in the form which is attached hereto as **Exhibit "F,"** executed by the Contributor;

(ii) Assignment of Intellectual Property, substantially in the form which is attached hereto as **Exhibit "G,"** executed by the Contributor;

(iii) Assignment of Licenses and Contracts, substantially in the form which is attached hereto as **Exhibit "H,"** together with originals (or, if unavailable, copies) of the Licenses and Contracts, executed by the Contributor;

(iv) the Assignment and Assumption of Lease, substantially in the form attached hereto as **Exhibit "I,"** executed by the Contributor; and

(v) the Consent to Assignment of the Lease, substantially in the form attached hereto as **Exhibit "J,"** executed by the Landlord under the Lease.

(c) The Contributor shall deliver the Property (or control of the Property) to Sevea, and the Contributor shall take all steps which may be necessary or appropriate to put Sevea in actual possession and control of the Property, including, without limitation, delivering or giving Sevea access to and control of all records, licenses, contracts and other documents pertaining to the Property or its ownership or operation, any insurance policies, bills of sale or other documents evidencing title or right of owner, and any and all other records or documents pertaining to the Property, whether or not enumerated herein, which are necessary or desirable for the ownership or operation of the Property.



(d) The Contributor shall deliver to Sevea the original, as applicable, patents, trademark registrations, licenses, permits, certificates of title, bills of sale, or other evidence of ownership reasonably acceptable to Sevea for all of the Property.

(e) The Contributor shall deliver to Sevea corporate resolutions or other evidence (satisfactory to Sevea) authorizing the Contributor to enter into and perform this Agreement and the Transaction Documents and to perform all of the Contributor's obligations specified therein.

(g) Sevea shall deliver to the Contributor corporate resolutions or other evidence (satisfactory to the Contributor) authorizing Sevea to enter into and perform this Agreement and the Transaction Documents and to perform all of its obligations specified therein; and

(h) Sevea and the Contributor shall take or cause to be taken such other actions, and execute or cause to be executed such instruments and documents, as may be reasonably necessary or appropriate, to effectuate the transactions contemplated under this Agreement.

### ARTICLE 3

#### Representations, Warranties and Covenants of the Contributor

As of the date of this Agreement and the Exchange Date, each of Flowering Scents and Nail Technologies hereby represent, warrant, and covenant to the other and to Sevea as follows:

3.1 **Organization and Good Standing.** Flowering Scents is and will be, on the Exchange Date, a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Nevada. Nail Technologies is and will be, on the Exchange Date, a corporation duly organized, validly existing, and in good standing under the laws of the State of Utah. Each Contributor has all necessary powers and authority and all material licenses and permits required by any governmental authority to own, lease, and operate its properties and to carry on its business as now being conducted. To the best of Contributor's knowledge, the Contributor is not in violation of any federal or state securities laws, or any other laws, rules, or regulations to which the Contributor is or may be subject; the Contributor is duly qualified to do business in every jurisdiction in which the nature of its business or properties makes such qualification necessary.

3.2 **Contributor's Authority and No Breach.** The Contributor further represents and warrants that:

(a) Contributor is the sole owner of the Property, which shall, as of the Exchange Date, be free and clear of all liens, claims, options, encumbrances, and restrictions of every kind and nature.

(b) Contributor has the right, without any consents or approvals (prior or otherwise), except as obtained by the Contributor and furnished to Sevea in accordance with this Agreement, to transfer and assign all of the Property as provided in this Agreement, and Sevea shall,



upon such transfer and assignment, become the sole owner of the Property, free and clear of all liens, claims, options, encumbrances, and restrictions of any and every kind and nature, except as otherwise contemplated herein.

(c) Contributor possesses all requisite power and authority to carry on the Business as it is now being conducted, and is duly qualified to do business and is in good standing in the state in which it is organized, as well as each and every other jurisdiction in which the character and location or the nature of the Business makes such qualification necessary.

**3.3 Further Representations, Warranties, and Covenants of the Contributor.** The Contributor also represents, warrants, and covenants that:

(a) No provision of any instrument to which the Contributor is subject or by which any of the Property is bound, prohibits, limits, or otherwise affects the right, power, and authority of the Contributor to enter into this Agreement and perform any and all of its obligations under this Agreement.

(b) The execution, delivery, and performance of this Agreement by the Contributor, including without limitation the transfer, assignment, and delivery contemplated by and under this Agreement, and the consummation by the Contributor of the transactions contemplated under this Agreement have been duly and effectively authorized and approved by all necessary corporate action on behalf of the Contributor.

(c) The Contributor has delivered (or, within ten (10) days of the execution of this Agreement, shall deliver) to Sevea, as applicable, accurate originals, copies, lists, and descriptions of the following:

(i) All of the Property, as well as (as requested) all evidence of and policies of insurance relating to any or all of the same;

(ii) All of the agreements (formal and informal) to which the Contributor is a party or to which the Property is or may be subject, (collectively, the "Obligations");

(iii) All of the accounts receivable related to the Business for which the Contributor is entitled to receive payment;

(iv) A written list (with explanation) of all rights under or pursuant to any warranties, representations, and guarantees relating to the Property.

(d) There is no litigation, proceeding, or governmental investigation or any claim pending or, to the best of Contributor's knowledge, threatened, against or relating to the Contributor, the Business, or the Property, or against the transactions contemplated by and under this Agreement, and there is no basis known to the Contributor for any such action

(e) The Contributor shall use its best efforts to secure, obtain and make each and every consent, approval, order or authorization of, or registration, declaration, or filing

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8

with, any governmental authority or any other person is required in connection with the execution and delivery of this Agreement, or the consummation of the transactions contemplated under this Agreement, by the Contributor.

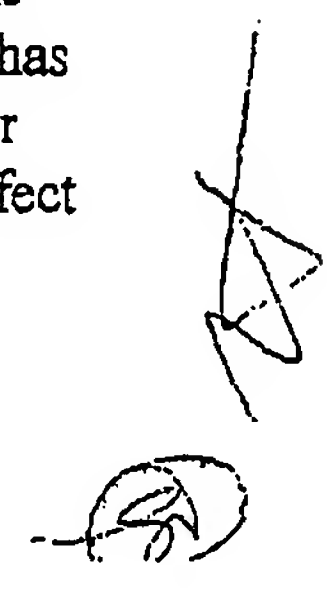
(f) To the best of Contributor's knowledge, the Contributor is now (and will be as of the Exchange Date) conducting the Business and its other businesses and operations in compliance with all laws, rules, and regulations applicable to the Property and the Contributor's Business and operations; and the Contributor shall not have (i) filed a voluntary petition in bankruptcy, (ii) been adjudicated a bankrupt or insolvent, or (iii) filed any petition or answer seeking any reorganization, assignment, composition, readjustment, liquidation, dissolution, or other relief under any federal or state bankruptcy act or under any other applicable federal or state statute, law or regulation affecting creditors' rights generally or otherwise.

(g) Except as otherwise disclosed to Sevea, all insurance premiums, real property taxes, personal property taxes, and other similar taxes, charges, and fees imposed on or with respect to or measured by the Contributor's Business, or any part of the Business (including without limitation the Property), and due and payable by the Contributor as of the date of this Agreement have been paid. The Contributor has no outstanding or unsatisfied deficiency tax liabilities, obligations, or assessments with respect to the Business, or otherwise.

(h) Contributor has all legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated by and under this Agreement. This Agreement has been duly executed and delivered by the Contributor and, together with all instruments and documents executed and delivered by the Contributor at the Exchange, constitute and will constitute legal, valid and binding agreements of the Contributor, enforceable in accordance with their terms.

(i) To the best of Contributor's knowledge, the execution and delivery of the Agreement by the Contributor does not, and the consummation of the transactions contemplated hereby will not conflict with or result in any violation of or default (with or without notice or lapse of time or both), or give rise to a right of termination, cancellation, or acceleration of any obligation or any lien, claim, pledge, charge, security interest, mortgage, or other encumbrance of any kind or nature upon any part or all of the Contributor's Business (including without limitation the Property), under any provision of the organizational or governing documents of the Contributor, or any mortgage, indenture, lease or other agreement, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule, or regulation applicable to the Contributor or any part or all of the Business and/or the Property, except for those landlord's consents required as contemplated in Section 3.3(p) which shall be obtained by the Exchange Date.

(j) Except as expressly provided in this Agreement or as disclosed to Sevea, the Contributor has no liabilities or obligations of any kind, which relate to, are connected with, or could adversely affect the value or operation of any part or all of the Property and/or the Business. Except as expressly provided in this Agreement, the Contributor does not know and has no reasonable grounds to know of any basis for assertion against the Contributor of any claim or liability of any nature in any amounts which relate to, are connected with, or could adversely affect the value or operation of any part or all of the Property and/or the Business.



(k) To the best of Contributor's actual knowledge, all information regarding the Property provided to Sevea is true, complete, and correct, and the records, books, data, and related information related to the Obligations and the Property (collectively, the "Information"), have been maintained in accordance with good business practices. To the best of Contributor's actual knowledge, the Information furnished or made available to Sevea by the Contributor accurately reflect the financial condition and results of operations of any and all matters related to the transactions contemplated under this Agreement for the period or periods covered thereby.

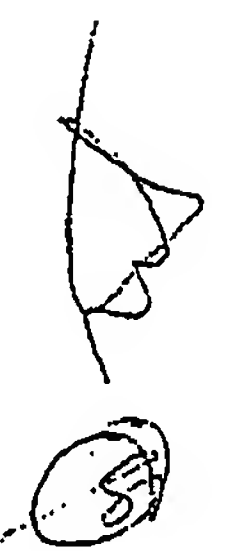
(l) Upon the Exchange the Property shall be subject to no other leases, liens, security interests, or encumbrances except as specifically described in this Agreement and except for any landlord's liens provided for by statute or by any of the Leases.

(m) To the best of Contributor's actual knowledge, the Contributor is in compliance in all material respects with all federal, state, and local laws and regulations respecting labor, employment, and employment practices, terms, and conditions of employment, and wages and hours, and is not engaged in any unfair labor practice. There are no charges or complaints against the Contributor relating to employment or employment practices pending before any court or any governmental body or agency; there is no labor strike or other labor trouble involving the Contributor pending or, to the best of Contributor's actual knowledge, threatened against the Contributor; to the best of Contributor's actual knowledge, no representation question exists respecting the employees of the Contributor, and no grievance which might have a material adverse affect on the Business and/or the Property or any arbitration proceeding arising out of or under any collective bargaining agreement is pending, and to the best of Contributor's actual knowledge, no claim therefor has been asserted or threatened.

(n) To the best of Contributor's actual knowledge, no aspect of the Property does presently, or will at the time of transfer to Sevea, infringe any existing copyright, tradename, trademark, or patent of any third party, or does presently, or will at the time of transfer to Sevea, include use of any improperly acquired valid trade secret of any third party or violate the terms of any agreement to which the Contributor is a party covering use of a trade secret or confidential know-how of any third party.

(o) For each License and Contract delivered to and, pursuant to this Agreement, transferred to Sevea, to the extent material to the Business or as otherwise requested by Sevea, the Contributor shall use its best efforts to assist Sevea, no later than ten (10) days following the Exchange, in obtaining written verification that the parties to the License and Contract (i) consent to the transfer of the same to Sevea, (ii) recognize that Sevea assumes only those liabilities arising or relating to periods from and after the Exchange Date and is not subject to any other liabilities relating to or arising from periods, actions or omissions prior to the Exchange Date, and (iii) confirm that the same is not and will not be, respectively, in default as of the Exchange Date or as a result of the Exchange.

(p) For the Lease delivered to and, pursuant to this Agreement, transferred to Sevea, Nail Technologies shall, by the Exchange Date, obtain written verification that the Lessor under the Leases (i) consents to the transfer of the same to Sevea, and (ii) recognizes that Sevea assumes only those liabilities arising or relating to periods after the

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Exchange Date and is not subject to any other liabilities relating to or arising from periods, actions or omissions prior to the Exchange Date.

#### ARTICLE 4

##### **Representations, Warranties and Covenants of Sevea**

Sevea hereby represents and warrants to the Contributor as follows:

4.1 **Organization and Good Standing.** Sevea is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada, and has the corporate power to carry on its business as it is now being conducted.

4.2 **Sevea's Authority.** Sevea further represents and warrants that:

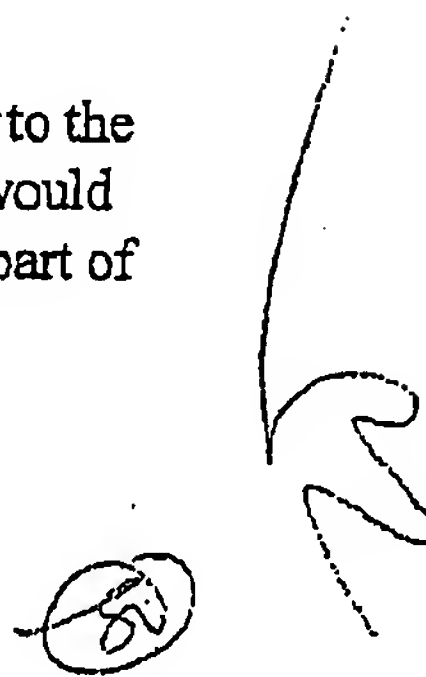
(a) Sevea is not, and by the execution, delivery, and consummation of this Agreement, will not be in default under any material obligation, contract, or agreement to which it is a party.

(b) Sevea has all corporate and legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated by and under this Agreement. The execution and delivery of this Agreement by Sevea and the consummation by Sevea of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on behalf of Sevea. This Agreement has been duly executed and delivered by Sevea and constitutes and will constitute a legal, valid, and binding agreement of Sevea, enforceable in accordance with its terms.

4.3 **Further Representations, Warranties, and Covenants.** In addition, Sevea represents, warrants, and covenants as follows:

(a) The execution, delivery, and performance of this Agreement by Sevea do not and the consummation by Sevea of the transactions contemplated by and under this Agreement will not conflict with or result in any violation of or default (with or without notice or lapse of time or both), or give rise to a right of termination, cancellation, or acceleration of any obligation or any lien, claim, pledge, charge, security interest, mortgage, or the encumbrance of any kind or nature upon any of the assets of Sevea, under any provision of the Articles of Organization and Operating Agreement of Sevea or any mortgage, indenture, lease or other agreement, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule, or regulation applicable to Sevea or its properties or assets.

(b) There is no litigation, proceeding, or investigation pending or, to the best of Sevea's actual knowledge, threatened against Sevea which, if adversely determined, would materially adversely affect the execution, delivery, or performance of this Agreement on the part of Sevea.

Handwritten signature and initials in the bottom right corner of the page.



(c) No consents, approvals, or authorizations of any governmental body or authority (federal, state or local) are required on the part of Sevea in connection with the execution, delivery or performance of this Agreement.

(d) No representation or warranty by Sevea contained in this Agreement contains or will contain any untrue statement of a material fact or omits or will omit any material fact necessary to make the statements contained herein or therein not misleading.

## ARTICLE 5

### Additional Covenants; Limitation on Warranties

5.1 **Additional Covenants of Contributor.** The Contributor hereby agrees that, pending and following the Exchange and except as otherwise consented to or approved by Sevea, in writing:

(a) Prior to the Exchange, Contributor shall not mortgage, pledge, or subject to any lien, charge, claim, or encumbrance any of the Property, or transfer, convey, or lease any of the Property or any of Contributor's rights, titles, or interests therein, except for the sale of inventory in the ordinary course of business.

(b) Prior to the Exchange, Contributor shall conduct the activities of the Business in the ordinary, normal, and customary course and manner, and shall keep proper business and accounting records.

(c) The Contributor shall not in any way interfere with the business and business relationships of Sevea.

(d) The Contributor will use its best efforts to preserve for Sevea the goodwill of the suppliers, vendors, customers, and others having business relations with the Contributor in respect of, directly or indirectly, the Property and the Business, and to maintain all business relationships of the Contributor in connection with the Business.

(e) In the event of any breaches of any covenants, warranties, or representations set forth in this Agreement, which adversely affect the transactions contemplated without limitation in this Agreement, the party making such covenant, warranty or representation shall take such actions as may be necessary and appropriate to indemnify, defend, and hold the other parties hereto harmless from and against any loss, liability, damage, or expense sustained or subject to as a result of the breach or nonfulfillment of any covenant set forth in this Agreement, or any claim against, or liability of, any party to this Agreement which is asserted against the other party or parties, or their respective agents, or employees.

5.2. **No Other Warranties.** EXCEPT AS SPECIFIED IN OR CONTEMPLATED UNDER THIS AGREEMENT, THE ASSETS TO BE TRANSFERRED HEREUNDER ARE TO BE TRANSFERRED IN AN "AS IS" CONDITION, WITHOUT

12

(5)

EXPRESS OR IMPLIED WARRANTIES, AND SUBJECT TO ALL FAULTS, PROBLEMS, CIRCUMSTANCES AND CONDITIONS AFFECTING THE ASSETS.

## ARTICLE 6

### Conditions Precedent to Sevea's Obligations

All obligations of Sevea under this Agreement are subject to the fulfillment, prior to or at the Exchange, of each of the following conditions (any one or more of which may, in the absolute discretion of Sevea, be waived by Sevea):

- (a) Sevea shall not have discovered and there shall not be any error, misstatement, or omission in the representations and warranties made by the Contributor contained in this Agreement which have a material and adverse effect on the Business or the consideration being paid therefor by Sevea.
- (b) The Contributor shall not (i) have filed a voluntary petition in bankruptcy, (ii) been adjudicated a bankruptcy or insolvent, or (iii) filed any petition or answer seeking any reorganization, assignment, composition, readjustment, liquidation, dissolution, or other relief under any federal or state bankruptcy act or under any other applicable federal or state statute, law or regulation affecting creditors' rights generally or otherwise.
- (c) The representations and warranties of the Contributor contained in this Agreement shall be deemed to have been made again at and as of the Exchange Date (except that such representations and warranties may reflect the consummation of any transactions consented to or approved in writing by Sevea) and shall then be true, complete, and accurate; and the Contributor shall have performed and complied with by it prior to or at the Exchange.
- (d) At the Exchange Date, no suit, action, appraisal, or other proceeding shall be pending or threatened before any court or other governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by and under this Agreement.
- (e) Sevea shall have reviewed and approved of the Property to be transferred and assigned to Sevea under this Agreement, as well as any and all other information, documents, and instruments to be transferred and delivered to Sevea by the Contributor under this Agreement.
- (f) The closing of the transactions contemplated by the Agreement shall not be in violation of or contravene any law, rule, regulation, order, judicial decision or the provisions of any agreement or document to which the Contributor or Sevea is a party or may be bound.
- (g) The transactions contemplated by and under this Agreement shall have been authorized by all necessary and appropriate actions on the part of Sevea and the





Contributors and shall be treated as simultaneous transactions regardless of the time required or counterparts executed.

(h) The Contributor shall have delivered the consent and verification of Lessor as referred to in Subsection 3.3(p), above.

(i) Both Flowering Scents and Nail Technologies shall have complied with all of the terms and conditions of this Agreement.

## ARTICLE 7

### Miscellaneous

#### 7.1 Survival of Warranties and Representations; Performance.

Notwithstanding any investigation conducted before or after the Exchange, and notwithstanding any actual or implied knowledge or notice of any facts or circumstances which Sevea may have as a result of such investigation or otherwise, Sevea shall be entitled to rely upon the warranties, representations, and covenants of the Contributor in this Agreement, and the obligations of the Contributor with respect to the warranties, representations, and covenants of the Contributor in this Agreement shall survive the Exchange Date. All representations and warranties in this Agreement or in any written statement delivered to Sevea pursuant to this Agreement shall be true, complete, and correct in all material respects on and as of the Exchange Date as though such representations and warranties were made on and as of such date. In this connection, the Contributor shall have in all material respects performed, satisfied, and complied with all covenants and agreements, and satisfied all conditions that the Contributor is required to perform, comply with, or satisfy, on, before or after the Exchange Date.

Further, notwithstanding any investigation conducted before or after the Exchange, and notwithstanding any actual or implied knowledge or notice of any facts or circumstances which the Contributor may have as a result of such investigation or otherwise, the Contributor shall be entitled to rely upon the warranties, representations and covenants of Sevea in this Agreement, and the obligations of Sevea with respect to the warranties, representations, and covenants of Sevea in this Agreement shall survive the Exchange Date. All representations and warranties in this Agreement or in any written statement delivered to the Contributor pursuant to this Agreement shall be true, complete and correct in all material respects on and as of the Exchange Date as though such representations and warranties were made on and as of such date. In this connection, Sevea shall have in all material respects performed, satisfied and complied with all covenants and agreements, and satisfied all conditions that Sevea is required to perform, comply with, or satisfy, on, before, or after the Exchange Date.

7.2 **Access to Property and Information.** From and after the date of this Agreement, the Contributor shall furnish or cause to be furnished to Sevea and its representatives all of the data and information concerning the Property as Sevea may reasonably request.

7.3 **Termination for Default or Breach.** Flowering Scents, Nail Technologies, and/or Sevea may by notice to the other parties given in the manner provided in this Agreement, at any time prior to the Exchange or as otherwise provided in this Agreement, terminate this

81

Agreement if (i) default shall be made by any other party in the observance or in the due and timely performance of any covenants and agreements contained in this Agreement, and any such default shall not have been fully cured on or before the Exchange after written notice specifying the alleged default, (ii) the transactions contemplated by and under this Agreement shall not be consummated for any reason by the Exchange Date, or (iii) any representation or warranty given by another party shall be breached. Upon any such termination, except as otherwise set forth herein to the contrary, the parties shall have no rights, liabilities or obligations, continuing or otherwise, against the other party to or any other party under this Agreement. Such right of termination shall be in addition to any and all rights and remedies available to such terminating party under this Agreement and applicable law in the case of a default by the other party. Notwithstanding anything to the contrary herein, in the event one of the Contributors is the defaulting party, then the other Contributor shall thereafter retain the rights set forth under paragraph 7.16 hereof.

7.4 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly delivered if delivered in person or if hand delivered, sent by first class mail, postage prepaid, certified or registered mail, return receipt requested, or nationally-recognized courier service:

If to the Contributor, to:

Flowering Scents, LLC  
MICHAEL MACRIS  
508 CARLTON KAY PL  
L.V. N.V. 89144

with a copy to:

John A. Snow  
Van Cott, Bagley, Cornwall & McCarthy  
50 South Main, Suite 1600  
Salt Lake City, UT 84144

AND

Artificial Nail Technologies, Inc.  
1076 Walburn Ave  
Layton, UT 84040

with a copy to:

Artificial Nail Technologies, Inc  
2550 S. Decker Lake Blvd #1  
West Valley City, UT 84119

If to Sevea, to:

Sevea International, Inc.  
MICHAEL MACRIS



508 CARLTON WAY PL  
L.I. N.Y. 89144

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered. If sent by mail in the form specified herein, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective two (2) business days after deposited in the United States mail or upon actual receipt, whichever first occurs. If sent by a nationally recognized air courier in the form specified in this Agreement, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective one (1) business day after deposited with such overnight courier or upon actual receipt, whichever first occurs. Either party to this Agreement may change the address to which notices and other communications under this Agreement are to be directed by giving written notice of such change to the other party in the manner provided in this Agreement.

**7.6 Expenses and Fees.** Except as otherwise expressly provided in this Agreement, each party to this Agreement shall pay its own costs and expenses (including without limitation reasonable attorneys' and reasonable accountants' fees) incurred in the preparation and execution of and the performance under this Agreement.

**7.7 Commissions, Etc.** The Contributor represents and warrants to Sevea and Sevea represents and warrants to the Contributor that no broker or finder has been engaged by the respective parties with respect to this Agreement, is in any way connected with this Agreement or any of such transactions, or is entitled to any fee or commission as a result of this Agreement or any of the transactions contemplated by or under this Agreement.

**7.8 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the undersigned parties and their respective legal representatives, successors and permitted assigns. Sevea shall have no right to assign its interest in this Agreement without the prior written consent of Contributor.

**7.9 Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties with respect thereto. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all parties to this Agreement. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed, in writing, by the party making the waiver.



7.10 **Counterparts.** This Agreement may be executed by facsimile and simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.11 **Severability.** In the event that any provision of this Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement.


7.12 **Further Assurances.** Each party agrees to execute and deliver all documents and to perform all further acts as may be reasonably necessary to carry out the provisions of this Agreement. Further, the Contributor covenants and agrees to execute and deliver such other and further instruments of assignments, transfer and conveyance of any of the Obligations and the Property, and of all permits, licenses and other governmental authorizations applicable to the Property and/or the Business (insofar as the same are assignable) as Sevea may reasonably require, whether on or after the Exchange Date, to evidence or perfect Sevea's right, title and interest in and to the Obligations, and the Property. In the event any of the Licenses and Contracts, at Sevea's request, cannot validly be assigned by the Contributor to Sevea at or before the Exchange, Sevea shall have the option to waive the conditions of Exchange in respect of such unassignability. In any event, the Contributor shall use its best efforts, until such time as the Contributor obtains any necessary consent to assignment of any thereof, to

(i) maintain the same in full force and effect for its duration,

(ii) provide to Sevea the full benefit thereof, and

(iii) accord to Sevea all of the Contributor's rights and privileges thereunder and exercise all such rights for the benefit and at the direction of Sevea without additional cost or expense to Sevea on account thereof, provided that Sevea performs or tenders to the Contributor performance of all of the obligations of the Contributor (other than ministerial or administrative acts which by their nature can reasonably be performed only by the Contributor) required by the terms thereof to avoid a material breach thereof by the Contributor. In the event any of the Licenses and Contracts cannot validly be transferred to Sevea at or before the Exchange, and such Licenses or Contracts are identified and set forth in separate writing signed by the parties at the Exchange Sevea shall indemnify, defend and hold Contributor harmless from any and all liabilities, claims, losses and/or damages, including but not limited to attorneys' fees and costs incurred in connection therewith, which may be incurred by Contributor as the result of Sevea's failure after the Exchange Date to perform the obligations of Contributor under such Licenses and Contracts.

7.13 **Best Efforts.** The parties hereto agree to use reasonable diligence and to exercise their best efforts to fulfill their respective obligations under this Agreement at all times that this Agreement is in effect.





7.14 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada.

7.15 **Effective Date of Agreement.** For all purposes of this Agreement this Effective Date shall be February 1, 2006, notwithstanding the actual date of execution by the parties. This applies to all representations, covenants and warranties found within this Agreement.

7.16 **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, and any other fees and costs incurred in the action or proceeding, in addition to any other relief to which such party may be entitled.

7.17. **Fiduciary Duties.** The parties agree that no fiduciary duties or similar duties are owed one to the other solely in connection with the negotiation and execution of this Agreement or the formation of Sevea. Except as provided in this agreement, all such duties shall otherwise apply as provided by law.

7.18 **Indemnification.** With respect to any and all claims, demands, losses, costs (including court costs and costs of appeal), expenses, obligations, fees (including reasonable attorneys' fees), liabilities, damages, recoveries, and judgments, which arise, result from or relate to any breach of or failure to perform any of the representations, warranties, covenants, or agreements contained in this Agreement, or which arise or result from liabilities, obligations, or commitments (the "Liabilities") of a party to this Agreement (the "Indemnitor"), which are not expressly assumed by any other party to this Agreement, or contemplated by this Agreement, the Indemnitor hereby agrees to, and hereby does, further indemnify, defend, and hold harmless any other party to this Agreement from, against, and in respect of the Liabilities.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

**CONTRIBUTOR:**

FLOWERING SCENTS, LLC,  
a Nevada limited liability company

By: Michael W. Mares

Its: MANAGER

ARTIFICIAL NAIL TECHNOLOGIES, INC.  
a Utah corporation

By: Scott Hill

Its: President

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SEVEA:

Sevea International, Inc., a Nevada corporation

By: Michael W. Maer  
Its: DIRECTOR / AGENT

(51)

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EXHIBIT "A"

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(Copy of Lease)

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**EXHIBIT "B"**

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(List and Description of Inventory and Equipment)

Part 1 – Inventory

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**EXHIBIT "B"**

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Part 2 – Other Personal Property

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**EXHIBIT "C"**

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(List and Description of Licenses and Contracts)



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**EXHIBIT "D"**

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(List of Excluded Assets)

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**EXHIBIT "F"**

---

(Form of Bill of Sale and Assignment)

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**EXHIBIT "G"**

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(Form of Assignment of Intellectual Property)

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**EXHIBIT "H"**

---

(Form of Assignment of Licenses and Contracts)

---

EXHIBIT "I"

---

(Form of Assignment of Lease)

"g"  
(Consent to Assignment of Lease)



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EXHIBIT "B"

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(List and Description of Inventory and Equipment)  
Part 1 – Inventory Artificial Nail Technologies

Inventory on Hand (Approximated)

Molding Guns	10
Mold Cartridge	92
Mold Distribution Tips	280
Nail Billets (5-Finger)	424
3gram Glue	4
Clear Top Coat	900
Pink Top Coat	700
Peach Top Coat	1000
Nail Stands	125
Pry Stick	150
Nail Billets	500

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## EXHIBIT "B"

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### Part 2 – Other Personal Property

Artificial Nail Technologies, Inc. Patents  
Issued  
United States Patent Nos. 5,968,302 and  
6,196,234

#### Other Patent Applications Pending

US 10/708065  
US 10/710959  
US 10/710961  
US 10/710962  
US 10/710971  
US 10/711019  
US 11/162430  
US 11/162437  
US 11/162439

PCT US2005/003854  
PCT US2005/003855  
PCT US2005/003831  
PCT US2005/004829

Taiwan 94104242

#### Other Property

(3) Genex Camera Systems  
(1) Tumbler  
(1) Orange Couch  
(1) Orange Chair  
(4) Room Dividers  
(1) Coffee table (front area)  
(1) Ottoman Chair  
(1) Copy of 3D Studio Max 7  
(2) Copies of Windows XP Professional  
(1) Prototype CNC Machine  
(1) Laptop – Jason has this  
(1) Prototype laser system  
(1) Conference Table

(14) Tall Leather Chairs  
(4) Graphic Workstations  
(2) Management Desks (W/ Hutch)  
(1) Executive Desk – Receptionist is  
using  
(2) Administrative Desk  
(11) Comfort Chairs  
(1) Phone System (Meridian - M8X24  
DS)  
(7) Meridian Phones  
(1) Meridian Programmable Phone  
(3) Computer System (Including  
monitor, mouse, keyboard & Speakers)  
In use by Craig, Luann and the  
Accounting Computer  
(1) Copy Machine (EP 3170)  
(1) Fax Machine (Sharp FO-5700)  
(3) Filing Cabinets  
(1) Server Blade – Located as Jason's  
old Desk (thin black blade – non DELL)  
(2) HP LaserJet 1100 – 1 attached to  
accounting computer, 1 in back  
(5) Tall Exhibits (1) is paid for and on  
hand with a balance forward to be  
applied to the other units, (4) remaining  
at Absolute Exhibits  
(1) JET Software Compiler  
(1) Doug Computer & Monitor & XP  
(1) Firewall  
(1) Air Gun  
(3) Graphic/Production Workstations w/  
XP and Monitors  
(1) Board Stamp Kit  
(3) 3D Max Licenses  
(1) Programmers Station & Monitor – In  
warehouse used as Infotrax Terminal  
(1) Compressor  
(1) Evaporator  
(2) Dragonfly Cameras

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EXHIBIT "D"

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(List of Excluded Assets)

Anything not expressly listed in the schedules

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EXHIBIT "E"

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(Distribution of Stock)

Artificial Nail Technologies, Inc.	10,000,000
Flowering Scents, LLC	5,000,000

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EXHIBIT "B"

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(List and Description of Inventory and Equipment)  
Part 1 -- Inventory Artificial Nail Technologies

Inventory on Hand (Approximated)

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US 11/162437  
US 11/162439

PCT US2005/003854  
PCT US2005/003855  
PCT US2005/003831  
PCT US2005/004829

Taiwan 94104242

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(7) Meridian Phones  
(1) Meridian Programmable Phone  
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In use by Craig, Luann and the  
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(1) Copy Machine (EP 3170)  
(1) Fax Machine (Sharp FO-5700)  
(3) Filing Cabinets  
(1) Server Blade – Located as Jason's  
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(2) HP LaserJet 1100 – 1 attached to  
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(1) Doug Computer & Monitor & XP  
(1) Firewall  
(1) Air Gun  
(3) Graphic/Production Workstations w/  
XP and Monitors  
(1) Board Stamp Kit  
(3) 3D Max Licenses  
(1) Programmers Station & Monitor – In  
warehouse used as Infotrax Terminal  
(1) Compressor  
(1) Evaporator  
(2) Dragonfly Cameras



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EXHIBIT "D"

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(List of Excluded Assets)

Anything not expressly listed in the schedules

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EXHIBIT "E"

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(Distribution of Stock)

Artificial Nail Technologies, Inc.	10,000,000
Flowering Scents, LLC	5,000,000

Matt C. Osborne, USB No. 7271  
**OSBORNE & BARNHILL, P.C.**  
11576 South State Street, Bldg 204  
Draper, Utah 84020  
Telephone: 801-571-2555  
Facsimile: 801-571-9929

Attorney for Artificial Nail Technologies, Inc.

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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ARTIFICIAL NAIL TECHNOLOGIES,  
INC., a Utah corporation, and TRUE FIT  
NAILS, LLC., a Utah limited liability  
company;

Plaintiffs,

v.

FLOWERING SCENTS, LLC, a Nevada  
limited liability company; SEVEA  
INTERNATIONAL, INC., a Nevada  
corporation; MICHAEL MACRIS, an  
individual; CHRISTINA MCNALLY, an  
individual; and CRAIG GIFFORD, an  
individual;

Defendants.

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**MEMORANDUM IN SUPPORT OF  
MOTION FOR WRIT OF REPLEVIN**  
(Expedited Hearing Requested)

Civil No. 2:06-CV-00609

Judge Dale A. Kimball

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Plaintiff Artificial Nail Technologies, Inc. ("Plaintiff" or "ANT"), by and through its counsel of record, Matt C. Osborne, Osborne & Barnhill, hereby submits the following Memorandum in Support of its Motion for Writ of Replevin to compel the delivery of ANT's assets which have been wrongfully detained by Defendants Flowering Scents, LLC, Sevea International, Inc.,

Michael Macris, Christina McNally, and Craig Gifford (collectively “Defendants”) pursuant to Rule 64 of the Federal Rules of Civil Procedure, and Rules 64A and 64B of the Utah Rules of Civil Procedure. Plaintiff requests an expedited hearing on this motion.

### I. INTRODUCTION

This action arises out of the Defendants’ unlawful and unjust appropriation of ANT’s assets, trade marks, clients, employees, office resources, and facility in order to benefit a newly formed company called Sevea. Defendants seek to compete directly against ANT and assume ANT’s position in the artificial nail industry.

ANT is a Utah - based company that designs, manufactures, and sells state of the art artificial nails that are custom made and precision fit to a customer’s unique fingernail anatomy. ANT protected its proprietary and confidential information related to its artificial nail products and related manufacturing processes by, among other things, requiring those individuals who had obtained information regarding ANT’s artificial nail system to enter into confidential and nondisclosure agreements. Over the course of their respective dealings with ANT, Defendant Flowering Scents, LLC. (“FS”), Defendant Craig Gifford (“Gifford”), Defendant Michael Macris (“Macris”), and Defendant Christina McNally (“McNally”), among others, entered into confidential and nondisclosure agreements with ANT.

In an effort to expand its marketing capabilities, ANT entered into an agreement with FS, a multi level marketing business. Under the agreement, ANT and FS each agreed to transfer

substantially all of their assets into a newly formed entity, Sevea International, Inc. ("Sevea International"), in exchange for equity in Sevea. Despite entering into the agreement, it is undisputed that Sevea failed to transfer any stock to ANT and the agreement terminated pursuant to its terms. In fact, on numerous occasions, Sevea acknowledged that the agreement had been terminated. Notwithstanding, Sevea proceeded to unlawfully seize ANT's assets and misappropriate its proprietary and confidential information in an effort to compete directly against ANT.

ANT commenced this action as it has been, and will continue to be, irreparably harmed by this unfair competition. FS, Fifford, Macris, and McNally, through their involvement with ANT, were in a unique position to know ANT's confidential and proprietary information and trade secrets and are using that information to compete with ANT. Furthermore, ANT's business goodwill and substantial investment in its products, manufacturing processes, and employee training have been jeopardized by the involvement of FS, Gifford, Macris, and McNally with Sevea, a competing business that came into existence as a result of ANT's good faith contribution of its assets to Sevea.

On September 1, 2006, this Court held an evidentiary hearing on ANT's initial Motion for Preliminary Injunction and Writ of Replevin. During that proceeding, Defendants admitted that ANT was not given the consideration agreed upon for contributing its assets to Sevea, that Sevea was not using ANT's assets and that Sevea would return all of ANT's assets. The parties

reached an agreement that Defendants would return ANT's assets. This agreement was relayed to the Court. Accordingly, the Court ruled on September 5, 2006, that Plaintiff's motion for writ of replevin is, "for the most part, moot because Defendants have offered the return of Plaintiff's equipment." *See* Order Re: Motion for Preliminary Injunction and Writ of Replevin entered on September 5, 2006, a copy to which is attached the Declaration of Jerry Saxton as Exhibit "A." ANT made arrangements to pick up the assets in September, 2006.

Although ANT knew that Defendants had not turned over the various patents and patent applications and had been negotiating with Jerry Saxton ("Saxton"), President of Sevea, its did not know that other assets, including without limitation its software, had not been returned and was in fact being used by Defendants. ANT has learned that Macris prior to returning the Eclipse Software used to manufacture the nails, had copied the software without ANT's knowledge.

In January, 2007, Saxton, the President and a significant shareholder of Sevea, in an apparent effort to prevent Macris, another principal and significant shareholder of Sevea, from removing ANT's assets from the state, moved much of the property from Sevea's business location at 2550 South Decker Lake Blvd., West Valley City, Utah ("Decker Lake Address"), to a new location in Salt Lake City, Utah.

Saxton and Gifford acknowledge that the items listed on Exhibit "A" to the Praecipe belong to ANT and that these assets are currently under their care and control. Macris desired to force Sevea into bankruptcy and/or take ANT's intellectual property to India to reproduce artificial nail



products there. Macris has also represented at times his intent to take ANT's assets, to Nevada as soon as he had access to it. According to Saxton and Gifford, they removed the assets from the Decker Lake Address to protect them from Macris' stated intentions.

Macris commenced legal action against Sevea, Gifford and Saxton in the matter of *Micheal Macris and Macris Enterprises, LLC v. Sevea International, Inc., Jerry Saxton, Katie Saxton, Craig Gifford, Meridee Anderson, Sevea International Productions, LLC, and John Does*, Case No. 07-0903010, Third District Court, Salt Lake Department, State of Utah ("State Case"), seeking the return of the assets removed from the Decker Lake Address.

Macris brought a Motion for Preliminary Injunction in the State Case, which was heard on April 11 and 12, 2007.<sup>1</sup> A true and correct copy of the Findings of Fact and Conclusions of Law, and Preliminary Injunction ("State Preliminary Injunction") is attached to the Declarations of Jerry Saxton and Craig Gifford as Exhibits "A," respectively.

In the State Case, it was ordered Saxton, Katie Saxton, Gifford, and Sevea immediately relinquish to Macris all inventory, sales materials, accounting books and records, distributor files, customer files, fixtures, furniture, and manufacturing equipment, office equipment, and any and all other documents or assets of Sevea, which were removed from the premises located at 2550 South Decker Lake Blvd., West Valley City, Utah. *See* Preliminary Injunction Order, ¶ 3(b), which is attached to the Declarations of Jerry Saxton and Craig Gifford as Exhibit "A".

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ANT now seeks a writ of replevin. Under the current facts, the requirements for the issuance of a writ is present as Macris has wrongfully and without justification received a court order to possess ANT's assets without ANT's involvement. Macris, if permitted to remove possession of ANT's assets from Sevea, Saxton, and Gifford, will likely remove them from the State of Utah. ANT, therefore, seeks an order of replevin requiring that Defendants return ANT's assets.

## **II. STATEMENT OF FACTS**

### **ANT's Artificial Nail System**

ANT designs, manufactures, and sells various artificial nail products. ANT and its predecessor entity Plaintiff True Fit Nails, LLC ("TFN") have spent substantial time and money in acquiring and developing specialized technologies and processes related to these artificial nail products. In particular, ANT and TFN have perfected a custom -fit artificial nail enhancement process in which a consumer's fingernails are artificially enhanced by measuring the consumer's unique anatomy, and attaching their artificial nail to the consumer's existing fingernail. Because ANT's unique thermoplastic artificial nails are custom fit and reusable, they provide unparalleled safety, durability, and long term afford ability to consumers. Plaintiffs' Verified Complaint ("Verified Complaint"), ¶ 12.

### **The Execution and Termination of the Asset Contribution Agreement**

In January of 2006, ANT desired to expand its marketing capabilities and began negotiations with FS, a multi-level marketing business that purported to possess a distributor pool and

fulfillment agreements that could fill orders placed by its distributors. *Id.* at ¶ 38.

On February 28, 2006, ANT and FS entered into that certain Asset Contribution Agreement (hereinafter the “ACA”), wherein FS and ANT agreed to contribute substantially all of their assets to the newly formed Sevea in return for equity in Sevea. Specifically, the ACA provided that in exchange for ANT contributing substantially all of its assets to Sevea, ANT would receive 10,000,000 shares of Sevea common stock. *Id.* at ¶¶ 39-40

Despite entering into the ACA, it is undisputed that no contribution or exchange took place among ANT, FS and Sevea as provided in the ACA. Specifically, ANT never received any shares of Sevea common stock or other consideration for its assets. Pursuant to Section 7.3 of ACA, Sevea’s failure to issue its common stock to ANT caused the ACA to terminate. Indeed, counsel for Sevea confirmed the termination of the ACA in numerous discussions, and in writing, to Plaintiff’s counsel. Specifically, counsel for Sevea stated, “the deal was never consummated- no meeting of the minds, two ships passing by each other on a stormy night.” *Id.* at ¶¶ 41-43.

Nevertheless, despite the termination of the ACA, and Sevea’s acknowledgment of its termination, Sevea unlawfully seized and retained control of ANT’s onsite facility located at 255-South Decker Lake Boulevard, No. 1, West Valley City, Utah 84119 (hereinafter the “ANT facility”). Sevea also unlawfully seized control of ANT’s assets, proprietary information and other ANT property among these assets are those listed in the Praecipe attached as Exhibit “A” to

the Motion for Writ of Replevin. Moreover, despite the termination of the ACA, Gifford, Macris and McNally continue to disclose and use ANT's proprietary information, for the benefit of Sevea, to compete directly with ANT. *Id.* at ¶¶ 44-45.

**ANT's Initial Motion for Preliminary Injunction and Writ of Replevin**

On September 1, 2006, the Court held an evidentiary hearing on ANT's Motion for Preliminary Injunction and Writ of Replevin. Defendants claimed during the initial preliminary injunction proceeding in this action that they were not using ANT's assets. They claimed that they had developed superior methods and processes. Defendants further admitted that no consideration had been given to ANT pursuant to the ACA agreement. *See Declaration of Justin Williams* ¶ 6

Sevea also claimed in September, 2006, to have purchased equipment that entirely replaced the equipment that ANT was to contribute to Sevea under the ACA. *See Declaration of Justin Williams* ¶ 7. Defendants also represented to the Court that ANT had never requested the return of its assets and denied ever refusing to return ANT's assets. Defendants at that time agreed to return ANT's assets. *See Declaration of Justin Williams* ¶ 8. ANT then promptly requested the return of its assets at which point Sevea and FS agreed to turn the assets over to the ANT. *See Declaration of Justin Williams* ¶ 9.

Based on these representations and a resulting agreement to return the assets listed in Exhibit "B" of the ACA, the Court ruled on September 5, 2006, that the Plaintiff's motion for writ of

replevin is, “for the most part, moot because Defendants have offered the return of Plaintiff’s equipment.” *See* Order Re: Motion for Preliminary Injunction and Writ of Replevin entered on September 5, 2006, a copy to which is attached the Declaration of Jerry Saxton as Exhibit “A.”

### **Defendant’s Failure to Return ANT’s Assets**

In or around September, 2006, ANT arranged for the pick-up of all of its assets. *See* Declaration of Craig Gifford ¶ 11. Prior to Sevea returning most of ANT’s equipment, Macris, Gifford’s boss, instructed Gifford to make copies of all ANT’s software prior to giving it back to ANT pursuant to the parties agreement. *See* Declaration of Craig Gifford ¶ 12.

Macris informed Gifford that he should not be concerned about copying ANT’s software because Macris felt that Sevea is entitled to the software, due to the representation of ANT and its principals alleged in the Counterclaim. Macris further told Gifford that in his experience ANT would not be able to prove it owned the Software if Sevea changed more than ten (10%) percent of the Software code. *See* Declaration of Craig Gifford ¶ 13.

Macris also told Gifford that he intended to make ANT pay millions in legal fees litigating the issue and that Sevea should be entitled to use the equipment until the legal matter is resolved. *See* Declaration of Craig Gifford ¶ 14.

Gifford was also instructed by Macris to turn over most but not all of ANT’s equipment. Macris informed Gifford that some of ANT’s equipment was needed to continue producing the nails, and that Gifford should not be concerned because the matter would be tied up in litigation

for such a long time, it would not matter. *See* Declaration of Craig Gifford ¶ 15.

Macris expressly or impliedly instructed Gifford not to return the following assets to ANT:

- a. 1 fixture/ appliance welding machine BPJ-565-703-TOM;
- b. 1 RPS 120 laser head probe specially designed for cutting nails;
- c. All finger nail tray molds;
- d. The mold used for the dowel stand;
- e. Eclipse Software Compiler.
- f. The following U.S. Patents:
  - U.S. Patent No. 5,968,392, filed June 3, 1997;
  - U.S. Patent No. 6,196,234, filed August 10, 1999;
  - U.S. Application No. 10/708,065, filed February 6, 2004;
  - U.S. Application No. 10/710,959, filed August 14, 2004;
  - U.S. Application No. 10/710,961, filed August 15, 2004;
  - U.S. Application No. 10/710,962, filed August 15, 2004;
  - U.S. Application No. 10/710,971, filed August 16, 2004;
  - U.S. Application No. 10/711,019, filed August 18, 2004;
  - U.S. Application No. 11/162,430, filed September 9, 2005;
  - U.S. Application No. 11/162,437, filed September 9, 2005;
  - U.S. Application No. 11/162,439, filed September 9, 2005;
  - PCT Application No PCT/US2005/003831 (WO/2005/076992), filed February 6, 2005;
  - PCT Application No PCT/US2005/003831 (WO/2005/076992), filed February 6, 2005;
  - PCT Application No PCT/US2005/003854 (WO/2005/076992), filed February 6, 2005;
  - PCT Application No PCT/US2005/003855 (WO/2005/076992), filed February 6, 2005; and
  - PCT Application No PCT/US2005/004829 (WO/2005/076992), filed February 6, 2005.



*See the Declaration of Craig Gifford ¶ 16.*

### **Current Location of ANT's Assets**

In December, 2006, Macris and Saxton could not agree upon the direction of Sevea. After several attempts to resolve their differences, Macris made it clear that he wanted to commence a bankruptcy action on behalf of Sevea. *See Declaration of Jerry Saxton ¶ 11.* Macris also indicated to Saxton his desire to take ANT's intellectual property to India to reproduce artificial nail products or sell them to a contact in India. *See Declaration of Jerry Saxton ¶ 12.*

In January 2007, in part in an effort to protect the assets of Sevea and prevent Macris from following through on his threats, Saxton, Katie Saxton and Gifford moved much of the property from Sevea's business location at 2550 South Decker Lake Blvd., West Valley City, Utah ("Decker Lake Address"), to a new location in Salt Lake City, Utah. *See Declaration of Jerry Saxton ¶ 14, Declaration of Craig Gifford ¶ 19.*

At least some of the assets which were removed from the Decker Lake Address in January 2007, were owned by ANT. *See Declaration of Jerry Saxton ¶ 15, Declaration of Craig Gifford ¶ 20.* ANT did not receive the shares in Sevea that were part of the deal. ANT owns the assets described above and identified in the ACA. *See Declaration of Jerry Saxton ¶¶ 15, 16.*

ANT recently learned that Defendants failed to return all of its assets and even copied its proprietary software before they returned its computers, server and software. *See Declaration of Justin Williams ¶ 14.*

In addition, ANT owns certain parts of the manufacturing equipment in the possession of Sevea, including without limitation the laser and the welder. These machines were custom build, at lease in part, and ordered by ANT, using its proprietary property. .See Declaration of Justin Williams ¶ 15.

ANT recently learned that Macris, and one of his entities Macris Enterprises, LLC, had commenced legal action against Defendant Craig Gifford and Mr. Saxton in the matter of *Micheal Macris and Macris Enterprises, LLC v. Sevea International, Inc., Jerry Saxton, Katie Saxton, Craig Gifford, Meridee Anderson, Sevea International Productions, LLC, and John Does*, Case No. 07-0903010, Third District Court, Salt Lake Department, State of Utah (“State Case”), See Declaration of Justin Williams ¶ 19.

At the hearing on the State Preliminary Injunction, Macris failed to inform the Court that some of the assets in Saxton’s possession are owned by ANT and failed to inform the State Court about this Action. See Declaration of Jerry Saxton ¶16. Macris also represented to the court in the State case that it is his intent to take ANT’s assets, to Nevada as soon as he had access to them. See Declaration of Jerry Saxton ¶ 13.

It was recently brought to ANT’s attention that the court entered a preliminary injunction in the State Case, which requires Saxton and Gifford to turn the assets they removed from the Decker Lake address, some of which belong to ANT. Moreover, the preliminary injunction in the state case may be construed to allow Macris to remove the assets of ANT from the State of

Utah and move them to the State of Nevada.

### **III. ARGUMENT**

#### **ANT IS ENTITLED TO A PREJUDGMENT WRIT OF REPLEVIN**

Rule 64 of the Federal Rules of Civil Procedure provides that all remedies available for seizure of property are available in the manner provided by law of the state in which the district court is held:

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the state in which the district court is held, existing at the time the remedy is sought, subject to the following: (1) any existing statute of the United States governs to the extent to which it is applicable; (2) the action in which any of the foregoing remedies is used shall be commenced and prosecuted or, if removed from a state court, shall be prosecuted after removal, pursuant to these rules. The remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated and regardless of whether by state procedure the remedy is ancillary to an action or must be obtained by an independent action.

Rules 64A and 64B, of the Utah Rules of Civil Procedure allows this Court to issue a prejudgment writ of replevin to compel delivery of ANT's assets wrongfully detained by Defendants. As set forth above and in Plaintiff's Verified Complaint, Sevea, Macris, McNally and Gifford wrongfully detained, and Gifford continues to control, assets owned by ANT as listed in the Praecipe attached as Exhibit "A" to ANT's Motion for Writ of Replevin. Macris has attempted to gain possession and control of the assets in the State Case and may, without the issuance of the requested Writ of Replevin, be successful under the terms of the State

Preliminary Injunction.

- a. *The requirements of Rule 64A, Utah Rules of Civil Procedure, for the issuance of a prejudgment writ are met in this matter.*

Utah Rule of Civil Procedure 64A provides for prejudgment writs under the following circumstances:

- (c) *Grounds for prejudgment writ.* Grounds for a prejudgment writ include, in addition to the grounds for the specific writ, all the requirements listed in subsections (c)(1) through (c)(3) and at least one of the requirements listed in subsections(c)(4) through (c)(10):
- (c)(1) that the property is not earnings and not exempt from execution; and
  - (c)(2) that the writ is not sought to hinder, delay or defraud a creditor of the defendant; and
  - (c)(3) a substantial likelihood that the plaintiff will prevail on the merits of the underlying claim; and
  - (c)(4) that the defendant is avoiding service of process; or
  - (c)(5) that the defendant has assigned, disposed of or concealed, or is about to assign, dispose of or conceal, the property with intent to defraud creditors; or
  - (c)(6) that the defendant has left or is about to leave the state with intent to defraud creditors; or
  - (c)(7) that the defendant has fraudulently incurred the obligation that is the subject of the action; or
  - (c)(8) that the property will materially decline in value; or
  - (c)(9) that the plaintiff has an ownership or special interest in the property; or
  - (c)(10) probable cause of losing the remedy unless the court issues the writ.

In this case, the requirements contained in sections (c)(1) through (c)(3) are met. The assets are not earnings or otherwise except from execution. The writ is not sought to hinder, delay or defraud a creditor of any of the Defendants in this matter. Finally, there is a substantial likelihood that ANT will prevail on the merits of its underlying claim regarding its ownership of the assets listed in Exhibit "A" to the Preacipe.

In addition, although the establishment of only one of the requirements in (c)(4) through (c)(10) is required for the issuance of a prejudgment writ, the requirements of (c)(5), (6), (7), (9) and (10) are met in this case.

- i. *(c)(5) Defendants have assigned, disposed of or concealed, and may be about to further assign, dispose of or conceal, the property with intent to defraud creditors.*

It is undisputed that ANWT was not given the consideration required by the ACA for the transfer of the assets at issue herein. Defendants and ANT entered into an agreement in September, 2006, which required Defendants to return ANT's assets. ANT was given possession of some of the assets at that time.

When Defendants refused to turn over the patents and patent applications and other equipment, ANT entered into negotiations with Saxton, who is the President of Sevea, not realizing that Sevea had copied its software and was using it. Later, Saxton and Macris, another principal of Sevea,

Saxton and Gifford removed ANT's assets from Sevea's business location in January, 2007,

have had possession and control of it since that time. Recently, however, the court ordered Saxton and Gifford in the State Case to return all assets, including ANT's, taken from Sevea's business location in January, 2007. The State Preliminary Injunction was issued in favor of Macris and his entity, Macris Enterprises, LLC, a Nevada limited liability company.

According to Saxton and Gifford, Macris has threatened in the past to sell the assets of Sevea, which would presumably include ANT's assets, to business ventures in India. More recently, Macris has stated that he would remove the assets from the State of Utah to the State of Nevada. Macris is a resident of Nevada, and Macris Enterprises, LLC, is Nevada limited liability company with its principal place of business in Nevada.

ANT's assets have already been concealed or disposed of when Macris instructed that its software be copied without its knowledge or consent and when Saxton and Gifford removed the assets from Sevea's business location without the knowledge of ANT. Given Macris' past threats and statements and the status of the State Case, ANT believes that Defendants are about to further conceal or dispose of the assets in an attempt to defraud ANT.

- ii. (c)(6) *Macris has left or is about to leave the state with intent to defraud creditors.*

Macris and Macris Enterprises, LLC, the persons or entities which will be given the right to possess and control ANT's assets under the State Preliminary Injunction, are residents of Nevada. Macris has in the past instructed others to conceal or dispose of the assets and more recently has stated his attempt to remove the assets to Nevada. Sevea is a Utah corporation and



its sole business operations have been in the State of Utah.

There is a substantial likelihood that Macris take ANT's assets with him to the State of Nevada. Given his past positions on ANT's assets and his refusal to turn over all of its assets in violation of the agreement between Defendants and ANT, ANT believes that Macris has the intent to defraud it and his efforts to remove the assets from the State of Utah is part of that effort.

- iii. *(c)(7) Defendants have fraudulently incurred the obligation that is the subject of the action.*

Defendants have fraudulently incurred the obligation that is the subject of the motion for writ of replevin, to wit: its possession and use of ANT's assets. It is undisputed that Sevea and FS did not pay the required consideration for the contribution of ANT's assets to Sevea. In September, 2006, in connection with this action, Defendants agreed to turn over possession of ANT's assets to it as part of ANT's initial Motion for Preliminary Injunction and for Writ of Replevin. Defendants avoided, at least in part, the determination and effect of ANT's initial writ of replevin through this agreement. Nevertheless, Defendants failed to turn over possession to all of the assets to ANT.

Defendants even copied ANT's software prior to returning certain computers and software to ANT, without ANT's permission or knowledge. Gifford has testified that Macris instructed him to copy the software and to not turn over the assets listed in Exhibit "A" of the Praecipe.

Moreover, it appears that one of the Defendants, Macris, intends to perpetrate the fraud. At

the hearing on the State Preliminary Injunction, Macris failed to inform the Court that some of the assets in Saxton's and Gifford's possession are owned by ANT and even failed to inform the State Court about this action.

iv. (c)(9) *ANT has an ownership or a special interest in the assets.*

ANT has an ownership interest or at the very least a special interest in the assets. *See* Utah R. Civ. Proc. 64A(c)(9). Saxton the President of Sevea, and Gifford, who is a defendant in this action, in their Declarations have testified that they believe that the assets set forth in Exhibit "A" to the Praecipe are owned by ANT. Exhibit "B" to the ACA evidences that the assets were owned by ANT at the time of its execution in February, 2006. According to the terms of the ACA, Sevea was

v. (c)(10) *There is probable cause that ANT will lose its remedy with regard to ownership of the assets unless the Court issues a writ.*

If a prejudgment writ of replevin is not issued to recover ANT's assets, there is probable cause that it will lose its remedy with regard to the assets. *See* Utah R. Civ. Proc. 64A(c)(10). ANT, Saxton, who is the President of Sevea, and Gifford, all believe that it is probable that Macris will remove ANT's assets from the State of Utah unless a writ of replevin is issued in this matter. Given Macris' past threats to take the business concept to India, as well as his recent statement that he would move the assets to the State of Nevada, where Sevea has never had any business operations, there is probable cause that ANT will lose its remedy to regain possession and control of the assets that if a prejudgment writ of replevin is not issued.

ANT has shown a substantial likelihood that it will prevail in this matter with respect to the ownership of, and right to control, the assets referenced in Exhibit "A" to the Praecipe. ANT has also shown that it will suffer the damages Rule 64B seeks to avoid. If this Court does not enter the requested Writ of Replevin, it appears that Defendants will attempt to dissipate, deplete, and conceal ANT's assets consistent with their prior unlawful acts. There is no dispute that ANT was not given consideration for the assets, or that Defendants agreed to give ANT possession of its assets in connection with its earlier Motion for Preliminary Injunction and for Writ of Replevin. As a result, ANT is entitled to a prejudgment writ under applicable Utah rules of procedure.

*b. ANT has met the requirements for a Prejudgment Writ of Replevin set forth in Rule 64B, Utah Rules of Civil Procedure.*

Rule 64B, Utah Rules of Civil Procedure, allows this Court to issue a writ of replevin to compel delivery of ANT assets currently held by one or more of the Defendants. As set forth above, Defendants wrongfully withheld the assets from ANT when it had agreed to turn them over in September, 2006. Later, in January, 2007, Jerry Saxton and Craig Gifford took possession of ANT's assets which are listed in the Praecipe attached as Exhibit "A" to its Motion for Writ of Replevin.

Rule 64B, Utah Rules of Civil Procedure, provides for the issuance of writs of replevin under the following circumstances:

*(b) Grounds.* In addition to the grounds required in Rule 64A, the grounds for a writ

of replevin require all of the following:

(b)(1) that the plaintiff is entitled to possession; and

(b)(2) that the defendant wrongfully detains the property.

ANT is entitled to possession of the assets. It is undisputed that ANT did not receive the consideration for the assets required by the ACA. Saxton and Gifford both take the position that ANT owns the assets.

Defendants have wrongfully detained the assets from ANT despite Sevea's undisputed failure to pay the consideration required by the ACA, despite their agreement to give the assets to ANT in September, 2006. Saxton and Gifford have agreed to give ANT possession of the assets but are now prevented from doing so by the State Preliminary Injunction.

#### IV CONCLUSION

For the foregoing reasons, ANT respectfully requests that this Court set a hearing on its Motion for Writ of Replevin, on an expedited basis, to prevent further injury to it by Defendants' unlawful and unjustified acts.

DATED this 16<sup>th</sup> day of May, 2007.

OSBORNE & BARNHILL, P.C.

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Matt C. Osborne  
Attorney for Plaintiff, Artificial Nail Technologies,  
Inc.

**MAILING CERTIFICATE**

I hereby certify that on the 16<sup>th</sup> day of May, 2007, I electronically filed the foregoing instrument with the Clerk of Court using the CM/ECF system and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Sevea International, Inc.  
c/o Scott Nielson-Registered Agent  
1076 Walburk Ave.  
Layton, UT 84040

True Fit Nails, LLC  
Registered Agent-Matthew Moyle  
1076 Walburk Ave.  
West Valley City, UT 84119

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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ARTIFICIAL NAIL TECHNOLOGIES,  
INC., a Utah corporation and TRUE FIT  
NAILS, LLC, a Utah limited liability  
company,

Plaintiffs,

vs.

FLOWERING SCENTS, LLC, a Nevada  
limited liability company; SEVEA  
INTERNATIONAL, INC., a Nevada  
corporation; MICHAEL MACRIS, an  
individual; CHRISTINA MCNALLY, an  
individual and CRAIG GIFFORD, an  
individual,

Defendants.

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER ON ANT'S MOTION  
FOR WRIT OF REPLEVIN**

Civil No. 2:06CV609DAK

Honorable Dale A. Kimball

On June 15, 2007, this Court heard oral argument and received evidence on the Motion for Writ of Replevin filed by plaintiff Artificial Nail Technologies, Inc. ("ANT"). ANT was represented by Matt C. Osborne, Esq. Defendants Flowering Scents, LLC, Michael Macris and Christina McNally were represented by J. Michael Hansen, Esq.<sup>1</sup> Defendant Craig Gifford and counterclaim plaintiff Jerry Saxton were represented by Sean N. Egan, Esq.

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<sup>1</sup> Mr. Hansen also purported to appear for defendant Sevea International, Inc. ("Sevea"). The Court notes that Mr. Hansen did not formally enter an appearance on behalf of Sevea as required by DUCivR 83-1.3(a). In addition, this appearance was objected to by counsel for Jerry Saxton, a shareholder and director of Sevea. The Court did not, and does not here, rule on that objection.



The Court received documentary evidence submitted by both ANT and Michael Macris. The Court also heard testimony from Craig Gifford, Michael Macris and ANT principal Justin Williams. Having considered this testimony and the documents presented and having also considered the supplemental pleadings submitted by the parties, the Court hereby makes the following Findings of Fact, Conclusions of Law and Order:

### **FINDINGS OF FACT**

1. ANT is a company that was formed to promote the development, manufacture and sale of artificial nails and related products using methods and processes created by ANT principals Dr. Gifford and Scott Nielson.
2. At least some of the processes and methodologies employed by ANT were the subject of patents obtained by Craig Gifford as well as patents pending submitted by both Craig Gifford and Scott Nielson.
3. The software used to manufacture nails, the Eclipse/NailBuilder Software, was developed by ANT personnel, including Craig Gifford and Scott Nielson, and was owned by ANT prior to the execution of the Asset Contribution Agreement ("ACA") in March, 2006.
4. ANT has developed and acquired at its expense certain equipment to manufacture artificial nails, including without limitation a finger tray mold and a nail tray stand mold. ANT owned these molds prior to the ACA.
5. Beginning in February, 2006, ANT entered into negotiations with Flowering Scents, LLC, an entity which sold health and beauty aides through a multilevel marketing structure. Defendant Michael Macris is a manager of Flowering Scents.

6. Throughout February of 2006, Flowering Scents and ANT explored the possibility of a merger. To that end, the parties entered into an Asset Contribution Agreement ("ACA") in March, 2006. Under this agreement, ANT agreed to contribute all the assets it used to manufacture artificial nails and related products including, but not limited to, all its physical equipment and the Eclipse/Nail Builder software and other related intellectual property. In exchange for this, ANT was to receive 10 million shares of a new company that was formed to be the product of the Flowering Scents and ANT merger. This new company was called Sevea International, Inc. ("Sevea").

7. Pursuant to the terms of the ACA, ANT delivered to Sevea physical and constructive possession of its assets, including the intellectual property used to manufacture artificial nail products. The items delivered were identified on Exhibit B to the ACA. Sevea continued manufacturing artificial nails using all of ANT's resources

8. It is undisputed that ANT has never received 10 million shares of Sevea stock required to be issued to ANT for the contribution of its assets to Sevea.

9. During the Spring and Summer of 2006, Sevea continued utilizing the ANT intellectual property to manufacture artificial nails. Sevea also placed orders for equipment to improve the manufacturing process, specifically a welder and a laser. This equipment had been identified and designed by ANT as necessary upgrades to the manufacturing process prior to the execution of the ACA.

10. The welder incorporated a fixture appliance designed by ANT for the express purpose of manufacturing artificial nails. Without this fixture appliance, the welder cannot manufacture ANT artificial nails.

11. The laser contained a laser head that ANT selected from numerous others supplied by the manufacturer based on factors and considerations that ANT believed were necessary to enhance its nail manufacturing process. Without this laser head, the laser cannot manufacture ANT artificial nails.

12. Sevea purchased the welder and laser in the Summer of 2006 and immediately used them to continue the manufacture of artificial nails using ANT's intellectual property, including ANT's Eclipse/Nail Builder software.

13. On July 25, 2006, ANT commenced this action against Sevea, Michael Macris, Christina McNally, Flowering Scents and Craig Gifford seeking an injunction to prevent Sevea from using ANT's assets, including its intellectual property to manufacture nails and seeking an immediate return of those assets.

14. On September 1, 2006, this Court heard oral argument on ANT's Motion for Preliminary Injunction and for Writ of Replevin. The Court denied both motions. With respect to the replevin motion, the Court determined that it was largely moot because Sevea had agreed to return to ANT's equipment.

15. On September 11, 2006, Sevea purchased two external hard drives and a program designed to copy software. Sevea used these materials to download and copy ANT's Eclipse/Nail Builder software and related software programs in their entirety. Sevea also

retrieved, and kept for itself, molds which were being held by ANT's vendors and which were used to make the artificial nails and related products. These molds were designed and owned by ANT and were subject to patents pending.

16. On or about September 14, 2006, ANT retrieved items made available by Sevea. However, Sevea continued manufacturing artificial nails utilizing the Eclipse/Nail Builder software, the fixture appliance designed by ANT, and the laser head specifically selected by ANT.

17. On November 22, 2006, ANT informed Sevea that it had not received the molds that it contributed under the ACA and demanded return of the items. Sevea ignored this request.

18. Beginning no later than December, 2006, Sevea's management fell into dispute about how best to manage and operate the company. Management was unable to resolve its internal differences. This dispute ultimately resulted in Sevea ceasing production of artificial nails. Thus, neither Sevea nor ANT are manufacturing artificial nails at this time.

19. The artificial nails manufactured by Sevea before September, 2006 were identical to those manufactured by ANT before execution of the ACA. The artificial nails manufactured by Sevea after September 1, 2006, were identical to the nails manufactured by ANT except that Sevea no longer utilized binding pockets to attach the artificial nail to the underlying nail.

20. The intellectual property, including patents, patents pending and other processes and methodologies used by ANT and Sevea to manufacture artificial nails and related products, are set forth in the ACA, including on Exhibit B, between Flowering Scents and ANT.

21. On or about January 9, 2007, one of Sevea's managers, Jerry Saxton, removed all of Sevea's assets as well as those ANT assets still in Sevea's possession, including ANT's Eclipse/Nail Builder software, from Sevea's facility in an attempt to produce artificial nails under a different entity. Sevea's other manager, Michael Macris, filed suit in state court and obtained an injunction against Saxton.

22. Michael Macris has expressed an interest in taking a copy of ANT's intellectual property, including the Eclipse/Nail Builder software, to India for production of artificial nails following completion of Sevea's winding up.

23. Macris also informed Gifford on January 9, 2007, that following resolution of the corporate dispute with Saxton, he intended to sell ANT's intellectual property to the highest bidder and pay Sevea's debts.

24. Sevea does not appear to have a business plan regarding production and sale of artificial nails and related products. Macris acknowledged under oath that the liquidation of the assets in the possession of Sevea was a possible course of action for Sevea.

25. The dispute regarding whether Sevea used or did not use ANT's equipment, including Macris' arguments that ANT's equipment was "junk" or not used because it was improved upon, is largely irrelevant because ANT seeks the equipment it contributed to Sevea. ANT's motion does not appear to be seeking equipment developed by Sevea. Therefore, Gifford's prior statements to counsel do not impact the determination before the court. Furthermore, Macris' argument suggests that a return of ANT's equipment would have little effect on Sevea.

### CONCLUSIONS OF LAW

1. ANT's Motion for Writ of Replevin is to be analyzed under Rules 64A and 64B of the Utah Rules of Civil Procedure. *See* Fed. R. Civ. P. 64.
2. ANT's Motion for Writ of Replevin does not seek the possession of property which are earnings or otherwise exempt from execution, Accordingly, ANT has satisfied U. R. Civ. P. 64A(c)(1).
3. ANT's Motion for Writ of Replevin is not brought to hinder, delay, or defraud any of the Defendants. Accordingly, ANT has satisfied U. R. Civ. P. 64A(c)(2).
4. ANT has established that it is likely to succeed on the merits of its claim because it is clear that Sevea continues to possess assets belonging to ANT which Sevea received as part of the failed ACA without payment of any consideration. Accordingly, ANT has satisfied U. R. Civ. P. 64A(c)(3).
5. ANT has established that the remedy of obtaining possession of its assets may not be available to ANT upon conclusion of this case. This is so because Sevea, acting through its managers and principal shareholders, has demonstrated a willingness to treat ANT's proprietary nail building assets as its own. For example, Saxton has moved ANT's assets without permission once, and Macris has expressed a willingness to sell ANT's assets once Sevea's corporate disputes are resolved whether by bankruptcy or corporate action. Thus, ANT has satisfied U. R. Civ. P. 64A(c)(10).
6. Prior to the ACA, ANT had an ownership or special interest in the equipment and intellectual property at issue. Indeed, there was significant evidence presented at the hearing on



ANT's replevin motion, that ANT either owns or has, both itself and through its principals, an interest in the patents and patents pending underlying the methodologies and processes ANT uses to manufacture artificial nails, particularly the Eclipse/Nail Builder software. Neither Gifford nor True Fit Nails has objected to ANT's replevin motion. Thus, ANT has satisfied U. R. Civ. P. 64A(c)(9).

7. ANT has also presented sufficient evidence to establish that Sevea may leave Utah with ANT's assets with the intent to defraud ANT as creditor. Thus, ANT has satisfied U. R. Civ. P. 64A(c)(6). ANT could be construed a creditor given Sevea's failure to pay ANT consideration under the ACA.

8. Finally, because Sevea is no longer producing artificial nails and Jerry Saxton has been enjoined by order of the state court from making nails, ANT's intellectual property and assets are sitting idle and are therefore likely to decline in value, especially the Eclipse/Nail Builder software. Also, if the assets are sold by any of the Defendants, they will obviously decline in value. Accordingly, ANT has satisfied U. R. Civ. P. 64A(c)(8).

9. Likewise, the Court is satisfied that ANT would lose its remedy of regaining possession of the assets if they were sold by any of the Defendants. Accordingly, ANT has satisfied U. R. Civ. P. 64A(c)(10).

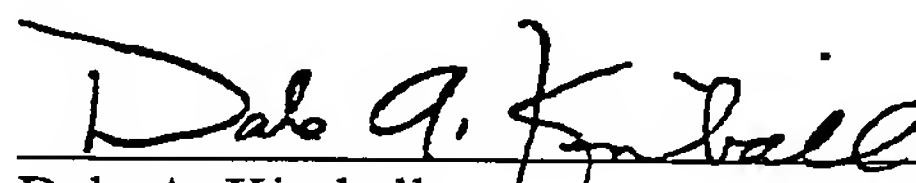
10. The Court concludes that because of the findings of fact and conclusions of law herein, it necessarily follows that ANT has satisfied U. R. Civ. P. 64B.

ORDER

1. ANT's Motion for a Writ of Replevin is hereby granted.
2. Sevea, Jerry Saxton, Craig Gifford, Michael Macris, Christina McNally and Flowering Scents are hereby ordered to return to ANT all items, including intellectual property, patents, patents pending and anything used by Sevea to manufacture artificial nails that was contributed to Sevea by ANT. This order expressly includes all copies of ANT's Eclipse/Nail Builder software and any variations or modifications thereof, ANT's molds, including the finger nail tray mold and the nail stand mold, and all of ANT's patents and patents pending files.
3. This order expressly excludes the welder and laser purchased by Sevea until the determination of ANT's Motion for Preliminary Injunction. Whether Sevea may use these items, in their current configuration, will be decided when ANT's Motion for Preliminary Injunction is heard on August 27, 2007.

DATED this 5<sup>th</sup> day of July, 2007.

BY THE COURT:



Dale A. Kimball,  
United States District Judge

Table A			
CHC Ref. No.	Title	Serial. No. & Filing Date	Patent No. & Issue Date
T11355.E	A Method, Process and Computer Program to Automatically Create a Customized Three-Dimensional Nail Object by Welding	U.S. Application 10/710,961 August 15, 2004	
T11355.F	A Method, Process and Computer Program to Automatically Create a Customized Three-Dimensional Nail Object by Morphing	U.S. Application 10/710,962 August 15, 2004	
T11355.G	A Method, Process and Computer Program to Automatically Create a Customized Three-Dimensional Nail Object by Library Reference	U.S. Application 10/710,971 August 16, 2004	

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Sandy, Utah 84091  
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Table A			
CHC Ref. No.	Title	Serial. No. & Filing Date	Patent No. & Issue Date
T11355.H	A Method and Process of Manufacturing an Artificial Nail Blank	U.S. Application 10/711,019 August 18, 2004	
T11355.I	Nail Surface Mold Enclosure	U.S. Application 11/162,430 Sept. 9, 2005	
T11355.J	Nail Impression Molding Kit	U.S. Application 11/162,437 Sept. 9, 2005	
T11355.K	Methods Involving a Molded Impression of a Natural Nail Surface in the Creation of an Artificial Nail	U.S. Application 11/162,439 Sept. 9, 2005	
T11355.L	Creating a Customized Artificial Nail Object	PCT/US2005/ 003831 Feb. 6, 2005	
T11355.M	Distinguishing a Nail Surface from Surrounding Tissue	PCT/US2005/ 003855 Feb. 6, 2005	
T11355.N	Artificial Nail Blank and Related Methods	PCT/US2005/ 003854 Feb. 6, 2005	

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Table A			
CHC Ref. No.	Title	Serial. No. & Filing Date	Patent No. & Issue Date
T11355.0	Custom Fit Artificial Nails and Related Systems, Methods, and Software	PCT/US2005/004829 Feb. 6, 2005	

WHEREAS, American Equities Management, LLC (hereinafter referred to as ASSIGNEE), a Texas Limited Liability Company, having an address of P.O. Box 94210, South Lake Texas 76092, is desirous of acquiring any and all right, title and interest held by ASSIGNOR in the Inventions.

NOW THEREFORE, in consideration of TEN DOLLARS AND 00/100 (\$10.00) and other good and valuable consideration paid to the ASSIGNOR by the ASSIGNEE, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR HEREBY ASSIGNS TO THE ASSIGNEE:

The entire right, title and interest in said Inventions and in the above-identified patents and in all divisions, continuations and continuations-in-part of said applications, or reissues or extensions of said patents, and in all corresponding applications filed in countries foreign to the United States, and in all patents issuing thereon in the United States and countries outside of the United States.

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The right to bring legal action for infringement of any patents listed in Table A, including past infringement and the right to receive damages for any past infringement.

The right to file foreign patent applications on said Inventions in his own name, wherever such right may be legally exercised, including the right to claim the benefits of any pertinent international convention or treaty.

ASSIGNOR hereby authorizes and requests that the officials of the United States Patent and Trademark Office, and such officials in countries other than the United States as are duly authorized by their patent laws to issue patents, to issue any and all patents on said Inventions to the ASSIGNEE as the owner of the entire interest, for the sole use and behoof of the said ASSIGNEE, its successors, assigns and legal representatives.

ASSIGNOR hereby agrees, without further consideration and without expense to him, to sign all lawful papers and to perform all other lawful acts which the ASSIGNEE, or the ASSIGNEE's successors, assigns and legal representatives may request of him to make this Assignment fully effective, including, by way of example but not of limitation, the following:

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Prompt execution of all original, divisional, substitute, reissue, and other United States and foreign patent applications on said Inventions, and all lawful documents requested by the Assignee, or the Assignee's successors, assigns and legal representatives to further the prosecution of any of such patent applications.

Cooperation to the best of his ability in the execution of all lawful documents, the production of evidence, nullification, reissue, extension, or infringement proceedings involving said Inventions.

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This Assignment shall be binding upon ASSIGNOR and upon any and all successors of ASSIGNOR.

Executed this 8<sup>th</sup> day of August, 2007, at Salt Lake City, Utah.

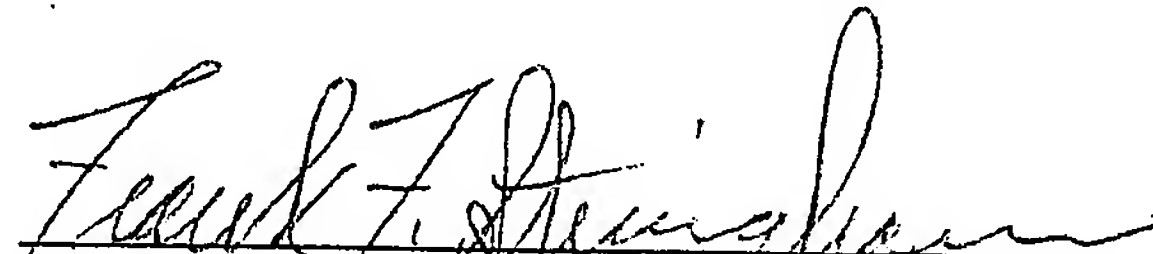
Scott L. Nielson



1076 Walburk Ave.,  
Layton, Utah 84040

STATE OF Utah )  
COUNTY OF Salt Lake ) ss

On this 8<sup>th</sup> day of August, 2007, before me personally appeared Scott Nielson, known to me to be the person described and who signed the foregoing Patent Assignment in my presence and acknowledged under oath before me that he has read the same and knows the contents thereof and that he executed the same as his free act and deed, on behalf of the identified party with authority to do so, for the purposes set forth therein.

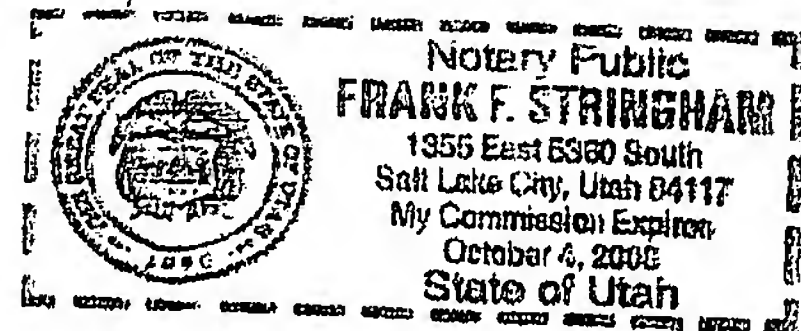


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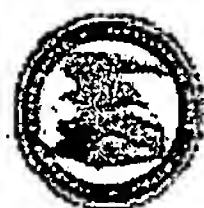
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Assignment: 1

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Pages: 16

Recorded: 09/24/2007

Attorney Dkt #: T11355

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

## Assignors

1 NIELSON, SCOTT L.

Exec Dt: 08/08/2007

2 GIFFORD, CRAIG P.

Exec Dt: 08/29/2007

## Assignee

1 AMERICAN EQUITIES MANAGEMENT, LLC

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## Properties

Pat #	Pub #	App #	Pat #	Pub #	App #	Pat #	Pub #	App #
NONE	<u>US20050175558</u>	10708065	NONE	<u>US20060036414</u>	10710959	NONE	<u>US20060036415</u>	10710961
NONE	<u>US20060033758</u>	10710962	NONE	<u>US20060034507</u>	10710971	NONE	<u>US20060038318</u>	10711019
NONE	<u>US20070059394</u>	11162430	NONE	<u>US20070057143</u>	11162437	NONE	<u>US20070057403</u>	11162439

## Correspondence name and address

GRANT R. CLAYTON

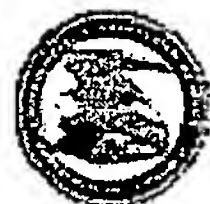
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Attorney Dkt #: T11355

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

## Total properties: 9

- |   |   |                                 |                         |                       |
|---|---|---------------------------------|-------------------------|-----------------------|
| 1 | Patent #: NONE<br>Publication #: <a href="#">US20050175558</a><br>Title: Method and process for detecting a nail surface  | Issue Dt:<br>Pub Dt: 08/11/2005 | Application #: 10708065 | Filing Dt: 02/06/2004 |
| 2 | Patent #: NONE<br>Publication #: <a href="#">US20060036414</a><br>Title: A method, process and computer program to automatically create a customized three-dimensional nail object                      | Issue Dt:<br>Pub Dt: 02/16/2006 | Application #: 10710959 | Filing Dt: 08/14/2004 |
| 3 | Patent #: NONE<br>Publication #: <a href="#">US20060036415</a><br>Title: A method, process and computer program to automatically create a customized three-dimensional nail object by welding           | Issue Dt:<br>Pub Dt: 02/16/2006 | Application #: 10710961 | Filing Dt: 08/15/2004 |
| 4 | Patent #: NONE<br>Publication #: <a href="#">US20060033758</a><br>Title: A method, process and computer program to automatically create a customized three-dimensional nail object by morphing          | Issue Dt:<br>Pub Dt: 02/16/2006 | Application #: 10710962 | Filing Dt: 08/15/2004 |
| 5 | Patent #: NONE<br>Publication #: <a href="#">US20060034507</a><br>Title: A method, process and computer program to automatically create a customized three-dimensional nail object by library reference | Issue Dt:<br>Pub Dt: 02/16/2006 | Application #: 10710971 | Filing Dt: 08/16/2004 |
| 6 | Patent #: NONE<br>Publication #: <a href="#">US20060038318</a><br>Title: A method and process of manufacturing an artificial nail blank   | Issue Dt:<br>Pub Dt: 02/23/2006 | Application #: 10711019 | Filing Dt: 08/18/2004 |
| 7 | Patent #: NONE<br>Publication #: <a href="#">US20070059394</a><br>Title: Nail Surface Mold Enclosure  | Issue Dt:<br>Pub Dt: 03/15/2007 | Application #: 11162430 | Filing Dt: 09/09/2005 |
| 8 | Patent #: NONE<br>Publication #: <a href="#">US20070057143</a><br>Title: Nail Impression Molding Kit  | Issue Dt:<br>Pub Dt: 03/15/2007 | Application #: 11162437 | Filing Dt: 09/09/2005 |
| 9 | Patent #: NONE<br>Publication #: <a href="#">US20070057403</a><br>Title: Methods involving a molded impression of a natural nail surface in the creation of an artificial nail                          | Issue Dt:<br>Pub Dt: 03/15/2007 | Application #: 11162439 | Filing Dt: 09/09/2005 |

## Assignors

- 1 [NIELSON, SCOTT L.](#)
- 2 [GIFFORD, CRAIG P.](#)

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Exec Dt: 08/29/2007

## Assignee

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**FILED DISTRICT COURT**  
 Third Judicial District

**MAY - 4 2007**

SALT LAKE COUNTY

By Pf

Deputy Clerk

*Attorney for Plaintiffs*

**IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY**

**STATE OF UTAH**

MICHAEL N. MACRIS, an individual;  
 and MACRIS ENTERPRISES, LLC, a  
 Nevada limited liability company,

Plaintiffs,

v.

SEVEA INTERNATIONAL, INC., a  
 Nevada Corporation; JERRY SAXTON, an  
 individual; KATIE SAXTON, an  
 individual; CRAIG GIFFORD, an  
 individual; MERIDEE ANDERSON, an  
 individual; SEVEA INTERNATIONAL  
 PRODUCTIONS, LLC, a Texas limited  
 liability company; and JOHN DOES I  
 though XX,

Defendants.

**FINDINGS OF FACT,  
 CONCLUSIONS OF LAW, AND  
 PRELIMINARY INJUNCTION**

Case No. 070903010

Judge Robert P. Faust

**COPY**

Plaintiff Michael N. Macris's *Motion for Preliminary Injunction*, brought for and on behalf of nominal defendant Sevea International, Inc., came on for Hearing before the Third Judicial District Court of Salt Lake County, State of Utah, the Honorable Robert P. Faust presiding, on April 11 and 12, 2007. Plaintiff Michael N. Macris was present in Court and represented by his counsel of record, J. Michael Hansen, Esq. Defendants Jerry Saxton, Katie Saxton, Craig Gifford, and Meridee Anderson were present in Court and represented by their counsel of record.

After hearing two days of sworn testimony, having reviewed the memoranda submitted by counsel, having heard the arguments of counsel, and being fully advised in the premises, the Court hereby makes the following

**FINDINGS OF FACT:**

1. Michael N. Macris ("Macris") is a citizen of the State of Nevada, residing in Las Vegas, Clark County, Nevada.
2. Nominal defendant Sevea International, Inc. ("Sevea"), is a corporation formed and existing under the laws of the State of Nevada which, until on or about January 16, 2007, had its principal place of business located at 2550 South Decker Lake Blvd, West Valley City, Utah.
3. Sevea was formed on or about February 10, 2006, by plaintiff Macris and one Christina McNally ("McNally").

4. The business of Sevea is the development of custom fitting, reusable, mass produced thermoplastic fingernails under the trademark "Simply Perfect" Nails by Sevea™, and the sale of "Flowering Scents" personalized face and body treatments.

5. Sevea's products were sold through the development of a multi-level marketing plan utilizing "Distributors" who not only sold Sevea's products to the public, but recruited and developed other "Distributors" who sold under them.

6. Macris has, since on or about April 15, 2006, been a shareholder in Sevea. As of August 4, 2006, Macris has owned 6,000,000 shares of the capital stock of Sevea. In addition, Macris has, since the inception of Sevea, served as a Director of Sevea and as its Secretary/Treasurer.

7. McNally has, since on or about April 15, 2006, been a shareholder in Sevea, owning 1,500,000 shares.

8. Defendants Jerry Saxton and Katie Saxton have, since on or about April 15, 2006, been shareholders in Sevea. As of August 4, 2006, Jerry Saxton and Katie Saxton have together been the owners of 6,000,000 shares of the capital stock of Sevea.

9. Defendant Jerry Saxton has, since the inception of Sevea, served as a Director of Sevea and, at all times pertinent herein, served as its Chief Executive Officer.

10. Defendant Katie Saxton, at all times pertinent herein, served as the Director of Marketing for Sevea.

11. In developing and manufacturing the "Simply Perfect" Nails by Sevea™, Sevea utilizes certain patents, inventions, and discoveries which were transferred to Sevea by Artificial Nail Technologies, defendant Craig Gifford ("Gifford") and one Scott L. Nielson by means of certain "Assignments."<sup>1</sup> In developing and manufacturing the "Simply Perfect" Nails by Sevea™, the skill and expertise of defendant Gifford is essential.

12. Gifford was employed by Sevea virtually from the inception of the company as its "Chief Science Officer." Gifford played a significant role in developing the Sevea's good will. Indeed, Gifford's photograph appears on the inside cover of Sevea's Distributor Handbook.

13. As a condition of and in consideration for his employment and continued employment with Sevea, defendant Gifford signed a written "Employment Agreement." Pursuant to the "Employment Agreement," defendant Gifford expressly agreed, among other things, as follows:

**General Confidentiality and Nondisclosure.** Employee, both during the Engagement and thereafter, shall hold and keep confidential all Confidential Information, as defined below, of or relating to Company, and shall not disclose, directly or indirectly, such Confidential Information to anyone

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<sup>1</sup> The validity of these Assignments is the subject of an action filed in the United States District Court for the District of Utah styled "Artificial Nail Technologies, *et al.* v. Flowering Scents, LLC, *et al.*," Case No. 2:06-cv-609. The Court, by this ruling, makes no determination who, as between the plaintiffs and the defendants in the federal court action, is the owner of the disputed intellectual property, instead confining its Findings, Conclusions, and Order to whom, as between the parties before this Court, is entitled to the use and benefit of the intellectual property.

(except in the regular course of Company's business or as required by law), or make use, directly or indirectly, of such Confidential information for Employee's own benefit or for the benefit of any third party. Employee shall at all times safeguard all Confidential information in Employee's possession or control so that it is not exposed to or appropriated by unauthorized persons. No Confidential Information, or any copies thereof in any form, shall be retained by Employee after termination of the Engagement. Employee shall promptly return all Confidential Information upon demand of Company.

("Employment Agreement" § 8.)

**Non-Competition, Non-Solicitation, and Non-Disparagement by Employee.** In connection with and in consideration of the hiring and continued employment of Employee as an employee of Company, the compensation to be paid to Employee as an employee of Company, the other benefits to be given to Employee pursuant to this Agreement, the obligations and agreements of Company set forth in this Agreement, and the disclosure to Employee of information that is confidential to Company while an employee of Company, Employee acknowledges and agrees to and with Company as follows:

(a) **Non-Competition.** While Employee is employed by Company, whether during or after the Engagement, and for a period of thirty-six (36) months from and after the termination of the Engagement pursuant to section 12 of this Agreement ("Termination Date"), Employee will not, in any capacity, and whether for compensation or not, without the prior written consent of Company, operate, manage, be employed by, consult for, provide services to, be associated with, permit Employee's name to be used in connection with, or be connected in any manner, whether as an officer, director, employee, agent, consultant, stockholder (other than as the holder of less than 2% of the aggregate outstanding shares of a class of equity securities publicly traded on a national securities exchange or quotation system) or have any other direct or indirect financial interest in any entity or person that, within the geographic area in which Company engaged in the Business as of the Termination Date (i) engages in the Business or the reasonably anticipated business, research, or development of Company, as viewed up to and through the last date of Employee's employment with Company; or (ii) sells, licenses, or provides any type of service and/or product competitive with Company.

(b) **Non-Solicitation.** While Employee is employed by Company, whether during or after the Engagement, and for a period of thirty-six (36) months from and after the Termination Date, Employee will not, directly or indirectly, whether as principal, agent, officer, employee, investor, consultant, stockholder, or otherwise, alone or in association with any other person:

(i) induce, solicit, or influence (or seek to induce, solicit, or influence) any employee of Company (or any parent, subsidiary or affiliate of Company), to terminate his or her employment, distributorship, or contractual relationship with Company (or with any parent, subsidiary or affiliate of Company); or

(ii) induce, solicit, or influence (or seek to induce, solicit, or influence) (A) any customer, prospective customer, distributor, independent contractor, consultant, or supplier of Company (or any parent, subsidiary or affiliate of Company) for the purpose of offering products or services that, directly or indirectly, compete or interfere with the Business, or (B) any person or entity under contract with Company (or with any parent, subsidiary or affiliate of Company), to terminate or alter that person or entity's relationship with Company (or with any parent, subsidiary or affiliate of Company). For the purposes of this Section 10(b)(ii), "prospective customer" means any party who has had contact with Company or any parent, affiliate, or subsidiary of Company, with the six (6) month period immediately preceding the Termination Date.

(c) **Non-Disparagement.** While Employee is employed by Company, whether during or after the Engagement, and for a period of thirty-six (36) months from and after the Termination Date, Employee will not disparage the good name, reputation, product, or services of Company (or any parent, affiliate, or subsidiary of Company), or engage in any conduct that brings Company (or any parent, affiliate, or subsidiary of Company), or Company's Business into public ridicule or dispute.

\* \* \*

(h) **Protectable Interests.** Employee agrees that Company has a



protectable interest in its Confidential Information and in its goodwill.

("Employment Agreement" § 10.)

**Enforcement.** Employee expressly acknowledges and agrees that the agreements and covenants contained in this Agreement, including without limitation the agreements and covenants contained in Sections 7 through 10 of this Agreement, are essential to protect the business and goodwill of Company, to prevent competitors from acquiring, appropriating or discovery Company's Trade Secrets and to protect Company's competitive advantage in the industry. If Employee breaches or threatens to breach any of the provisions of this Agreement, including without limitation Sections 7, 8, 9, or 10 hereof, Company shall have the right to have such covenants specifically enforced in a court of competent jurisdiction, it being agreed that any breach or threatened breach would cause irreparable injury to Company and that money damages would not provide an adequate remedy to Company. Company shall be entitled to injunctive relief, without posting a bond, and without the necessity of proving actual damages, immediately restraining Employee from such continuing or threatened breach, and such injunctive relief shall [be] in addition to all other remedies available to Company at law or in equity. . . .

("Employment Agreement" § 11.)

**Attorney Fees and Costs.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which the prevailing party may be entitled.

("Employment Agreement" § 20.)

14. In Section 11 of the "Employment Agreement," Gifford acknowledges that the provisions "are essential to protect the business and goodwill of [the] Company. . . ."

15. Defendant Gifford acknowledged that "any breach or threatened breach would cause irreparable injury to Company and that money damages would not provide an adequate remedy to Company." "Employment Agreement" § 11.

16. Defendant Gifford expressly agreed in the event of a breach of the Non-Competition provisions of the Agreement that Sevea "shall be entitled to injunctive relief, without posting a bond, and without the necessity of proving actual damages, immediately restraining Employee from such continuing or threatened breach . . . ." "Employment Agreement" § 11.

17. On or about September 29, 2006, the Sevea's shareholders entered into a certain "Voting Agreement." The effect of the Voting Agreement was to vest all corporate shareholder power in a "Committee," the only members of which were plaintiff Macris and defendant Jerry Saxton. The "Voting Agreement" does not, by its terms, contemplate what was to occur if Macris and defendant Jerry Saxton became deadlocked on an issue.

18. On or about June 12, 2006, Sevea entered into a certain "Master Distributor Agreement" with plaintiff Macris Enterprises, LLC. The "Master Distributor Agreement" was later amended pursuant to the "First Addendum to Master Distributor Agreement" dated September 12, 2006. The effect of these agreements was to make Macris Enterprises, LLC, the base level of the multi-level marketing program selling Sevea products, with all other Distributorships under Macris Enterprises, LLC. As stated in the "First Addendum to Master Distributor Agreement:"

Any and all distributor(s), person(s) or entities of any kind shall exist entirely within the organization or universe of Master Distributor's downline or network at Master Distributor's discretion and direction either front line, or under any other distributor's network.

19. In reliance on the "Master Distributor Agreement" as modified by the "First Addendum to Master Distributor Agreement," Macris Enterprises actively recruited Distributors for the Sevea product line. By December, 2006, there were approximately 200 Distributors who had executed Distributor Agreements with Sevea.

20. In pursuance of its business plan, Sevea, between February, 2006, and December, 2006, purchased inventory necessary for the production of "Simply Perfect" Nails by Sevea™, sales literature and equipment including, but not limited to, computers, laser scanners, scan control software, a Mini Vibration Welder, files, desks, furniture, and other items, having a value in excess of \$400,000.00. By December, 2006, Sevea also had extensive Distributorship files, customer files, accounting records, and other business documents.

21. Sales of Sevea products began in earnest in October, 2006. Gross income for October, 2006, was approximately \$15,000.00. Gross income for November, 2006, was approximately \$45,000.00. Gross income for the month December, 2006, as of December 20, 2006, was approximately \$30,000.00. It was anticipated that total sales for the month of December, 2006, would have been approximately \$50,000.00.

22. Jerry Saxton and Katie Saxton, beginning on or about December 29, 2006, engaged in the following acts:

(a) On or about December 29, 2006, without a vote of Sevea's Board of Directors or the holding of a meeting of the Committee of the Shareholders established pursuant to the "Voting Agreement," unilaterally and without appropriate corporate approval announced that the "[H]ouse of Sevea is closed."

(b) Some time between January 9 and January 16, 2007, removed, with the assistance of Craig Gifford, Meridee Anderson, and others, without a vote of the Board of Directors or authorization of the Committee of the Shareholders established pursuant to the "Voting Agreement," all of the inventory, sales materials, accounting books and records, Distributor files, customer files, furniture, fixtures and equipment of Sevea, leaving only Flowering Scents products, and removed the same to an office and manufacturing facility located at 2826 South Redwood Road, West Valley City, Utah.

(c) Without necessary corporate authorization, terminated Sevea's employees and rehired some of the former Sevea employees, including Gifford, to continue with the development, manufacture and sale of "Simply Perfect" Nails under a new company, defendant Sevea International Productions, LLC, an entity owned and managed by Jerry Saxton and Katie Saxton.

(d) The rehired employees, while working for Sevea International Productions, LLC, are being paid by another company owned by defendant Jerry Saxton, American Equities Management.

(e) Formed a Texas limited liability company with a name similar to Sevea's, "Sevea International Productions, LLC," for the purpose of engaging in the same line of business as Sevea.

(f) In manufacturing "Simply Perfect" Nails through Sevea International Productions, LLC, are utilizing the patents, inventions, and discoveries assigned to Sevea under the Assignments executed by Artificial Nail Technologies, defendant Craig Gifford and Scott L. Nielson dated March 27, 2006, and the inventory, products, manufacturing equipment, financial records, office files, computers, office equipment, and furniture removed from Sevea's office in January, 2007.

(g) Reserved names similar to Sevea's, "Sevea International, L.L.C.," and "Sevea International Products, INC.," with the Corporate Division of the Texas Secretary of State.

(h) Continued to utilize Sevea's local telephone number, (801) 924-0002.

(i) Contacted Sevea Distributors to inform them that "[n]ail production will continue under a new company," that the new company "will continue to product and market Simply Perfect Nails under a direct wholesale sales model," and soliciting Sevea Distributors to enter into "Sales Representative agreements" with the new company.

(j) Have directed Sevea's creditors and now disgruntled Distributors to Macris.

(k) Abandoned, without notice to Macris or Sevea's other shareholders, Sevea's inventory of "Flowering Scents" personalized face and body treatments without assuring that the inventory would be kept in a manner which would not have a deleterious effect on the products.

23. By reason of this conduct, Sevea has been unable to conduct its business, file tax returns, or function in any significant manner.

24. Defendants Jerry Saxton and Katie Saxton possess an unfair advantage in competing against Sevea due to, among other things, their closing of Sevea; the taking of Sevea's assets including all inventory, sales materials, accounting books and records, Distributor files, customer files, furniture, office equipment, manufacturing equipment, patents, and inventions; their termination of Sevea's employees, and rehiring of some of those employees, including defendant Gifford who had an "Employment Agreements" with Sevea which contained non-competition and non-disclosure provisions; their competition with Sevea selling "Simply Perfect" Nails by Sevea™ through Sevea International

Productions, LLC, an entity owned and managed by the Saxtons and which has a deceptively similar name to Sevea's; their use of Sevea's telephone number; and their attempts to solicit Sevea's Distributors to become Sales Representatives of their new company.

25. Subsequent to January 15, 2007, defendant Gifford, in breach of the provisions of his "Employment Agreement," has become employed by defendant Jerry Saxton and Katie Saxton, and is actively engaged in the development and manufacture of "Simply Perfect" Nails by defendant Sevea International Productions, LLC.

In view of the foregoing, the Court hereby makes the following

**CONCLUSIONS OF LAW:**

1. Plaintiff Michael N. Macris, as an officer, director, and shareholder of Sevea, is a proper person to bring a derivative action for and on behalf of Sevea.

2. Rule 23.1 of the *Nevada Rules of Civil Procedure*, like Rule 23.1 of the *Utah Rules of Civil Procedure*, sets forth heightened pleading requirements in shareholder derivative suits. Under Rule 23.1, a derivative complaint must state, with particularity, the demand for corrective action that the shareholder made on the board of directors (and, possibly, other shareholders) and why he failed to obtain such action, or his reasons for not making a demand. Thus, a shareholder must set forth particularized factual statements that are essential to the claim that a demand has been made and refused, or that making a demand would be futile or otherwise inappropriate.



3. Plaintiff Macris set forth in the Verified Complaint, and again presented evidence during the Preliminary Injunction Hearing, showing that a demand on Sevea would be futile.

Those facts include:

(a) The "Voting Agreement" dated September 29, 2006, the effect of which was to vest all corporate shareholder power in a "Committee," the only members of which were plaintiff Macris and defendant Jerry Saxton.

(b) A delineation of the acts engaged in by defendants Jerry Saxton and Katie Saxton which would make their approval of a lawsuit to be brought by Sevea against them impossible.

4. Rule 65A(e) of the *Utah Rules of Civil Procedure* provides that a preliminary injunction may only be issued if the applicant can demonstrate the following elements:

(1) The applicant will suffer irreparable harm unless the order or injunction issues;

(2) The threatened injury to the applicant outweighs whatever damage the proposed order or injunction may cause the party restrained or enjoined;

(3) The order or injunction, if issued, would not be adverse to the public interest; and

(4) There is a substantial likelihood that the applicant will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further litigation.

5. Plaintiff Macris, on behalf of nominal defendant Sevea, has met his burden of establishing that Sevea has, and will, suffer irreparable harm absent the issuance of a Preliminary Injunction against the defendants. Indeed, there has been not only a threatened harm, but actual harm has occurred by the removal by Jerry and Katie Saxton and Gifford of

all of the assets, manufacturing equipment, inventory, office computers, furniture, office equipment from Sevea International, Inc., and starting a new fingernail business through defendant Sevea International Productions, LLC, and American Equities Management. Moreover, defendant Gifford expressly agreed in his "Employment Agreement" to a non-competition clause which prevented him from working for, or being, a competitor, and further agreed that any breach of the non-competition provision would cause irreparable injury to Sevea International, Inc.

6. Plaintiff Macris, on behalf of Sevea International, Inc., has met his burden of establishing that the threatened injury, and in this case the actual injury, to Sevea International, Inc., outweighs whatever damage the injunction may cause the defendants.

This is particularly so given the following:

(a) Defendant's own actions of taking and removing the assets of Sevea International, Inc., of which they were the co-owners, and using the assets in defendant Sevea International Productions, LLC, to produce the very product which had been produced by Sevea International, Inc.

(b) Defendants Saxton are shareholders of Sevea International, Inc., where the assets are to be returned and this would not harm or jeopardize them.

To allow the status quo to remain, which was created by the Saxtons' and Giffords' unilateral actions would destroy Sevea International, Inc., especially if the Saxtons were permitted to retain control of Sevea International Inc.'s assets, equipment and financial records and use those assets to compete against Sevea International.

7. Public interest considerations strongly weigh in favor of issuing a Preliminary Injunction in this case. It is in the public interest to enforce the parties' contractual rights regarding the non-competition clause in defendant Gifford's Employment Agreement and to ensure compliance with statutes and processes regarding corporations and their ownership rights.

8. It is likely that plaintiff Macris, on behalf of Sevea International, Inc., will succeed on the merits of this action against the Saxtons and Sevea International Productions, LLC, for the following reasons:

(a) The Saxtons, as officers and directors of Sevea International, Inc., owed fiduciary duties of loyalty and good faith to Sevea International, Inc. *See, e.g., Leavitt v. Leisure Sports Incorporation*, 103 Nev. 81, 734 P.2d 1221, 1224 (Nev. 1987); *Nicholson v. Evans*, 642 P.2d 727, 730 (Utah 1982).

(b) The Saxtons breached their fiduciary duties to Sevea International, Inc., by engaging in the conduct set forth in *Finding of Fact* No. 21 above.

(c) There was no explanation provided by defendants Saxtons which even attempted to establish why they were entitled to complete ownership of all the assets, patent rights, manufacturing equipment, production inventory, office equipment, supplies, furniture, books, and records owned by Sevea International, Inc., and why, if the company was being liquidated, the assets of the company were to also distributed to the other shareholders.

(d) The Saxtons did not follow or initiate any legal proceeding or other process established in law for the termination, winding-up or distribution of the assets of Sevea International, Inc.

9. The issue of the enforceability of the non-competition provision of defendant Gifford's Employment Agreement is significant and should be the subject of further

litigation.

10. This is, accordingly, an appropriate case for the issuance of a Preliminary Injunction in favor of plaintiff Macris, for and on behalf of Sevea International, Inc., and against defendants Jerry Saxton, Katie Saxton, Sevea International Productions, LLC, and Craig Gifford.

In view of the foregoing *Findings of Fact* and *Conclusions of Law*, it is hereby

**ORDERED, ADJUDGED AND DECREED** that, pending judgment entered after a trial on the merits of this action:

1. That defendant Craig Gifford, ~~his attorneys, and all other persons in active concert or participation with him who receive notice in person, through counsel, or otherwise of this Preliminary Injunction,~~ <sup>is</sup> shall be and hereby ~~are~~:

(a) Enjoined from operating, managing, being employed by, consulting for, providing services to, being associated with, or permitting his name to be used in connection with, or being connected with in any manner, whether as an officer, director, employee, agent, consultant, stockholder (other than as the holder of less than 2% of the aggregate outstanding shares of a class of equity securities publicly traded on a national securities exchange or quotation system) or from having any other direct or indirect financial interest in any entity or person that, within the United States of America or Canada, engages

in the business, research or development of custom fitting, reusable, mass produced fingernails.

(b) Enjoined from directly or indirectly, whether as a principal, agent, officer, employee, investor, consultant, stockholder, or otherwise, alone or in association with any other person, from:

(1) inducing, soliciting, or influencing (or seeking to induce, solicit, or influence) any employee or Distributor of Sevea International, Inc., to terminate his or her employment, distributorship, or contractual relationship with Sevea International, Inc.; or

(2) inducing, soliciting, or influencing (or seeking to induce, solicit, or influence) (A) any customer, prospective customer, Distributor, independent contractor, consultant or supplier of Sevea International, Inc., for the purpose of offering custom fitting, reusable, mass produced thermoplastic fingernails; or (B) any person or entity under contract with Sevea International, Inc., to terminate or alter that person or entity's relationship with Sevea.

*This ordered does not effect any pre-existing ownership in ANT, if any.*

(c) Enjoined from disparaging the good name, reputation, product or services of Sevea International, Inc., or from engaging in any conduct that brings Sevea International, Inc., into public ridicule or disrepute.

2. That defendants Jerry Saxton, Katie Saxton, and Sevea International Productions, LLC, ~~their attorneys, and all other persons in active concert or participation with them who receive notice in person, through counsel, or otherwise of this Preliminary Injunction,~~ shall be and hereby are:

- (a) Enjoined from employing or continuing to employ Craig Gifford in any capacity or position in which Craig Gifford would necessarily be called upon to violate his Employment Agreement by competing with Sevea International, Inc., soliciting Sevea International, Inc.'s customers, employees, Distributors, independent contractors, consultants or suppliers for the purpose of offering custom fitting, reusable, mass produced fingernails, or inducing, soliciting, or influencing any person or entity under contract with Sevea International, Inc., to terminate or alter that person's or that entity's relationship with Sevea International, Inc.
- (b) Enjoined from developing, manufacturing, and/or selling custom fitting, reusable, mass produced fingernails.
- (c) Enjoined from engaging in any business enterprise utilizing deceptively similar names to Sevea International, Inc., such as, by way of example and not limitation, "Sevea International Productions, LLC," "Sevea International, L.L.C.," and "Sevea International Products, INC."
- (d) Enjoined from utilizing the telephone number assigned to Sevea International, Inc., (801) 924-0002.
- (e) Enjoined from obtaining, using, or disclosing any confidential, proprietary trade secret information belong to Sevea International, Inc., including but not



limited to information concerning Sevea International, Inc.'s customers and customer lists, Distributors and Distributor lists, patents, patents pending, trademarks (including "Simply Perfect" Nails), inventions, discoveries, methods of sales and marketing, Sevea International, Inc.'s pricing and costs, and any specialized or particular requirements or needs of Sevea International, Inc.'s customers or Distributors.

(f) Enjoined from inducing, soliciting, or influencing (or seeking to induce, solicit, or influence) any employee, Distributor, or independent contractor, including vendor, of Sevea International, Inc., to terminate his or her employment, distributorship, contractual relationship, or vendor-vendee relationship with Sevea International, Inc.

3. That defendants Jerry Saxton, Katie Saxton, Craig Gifford, and Sevea International Productions, LLC, ~~their attorneys, and all other persons in active concert or participation with them who receive notice in person, through counsel, or otherwise of this Preliminary Injunction, be, and the same hereby are:~~

(a) Enjoined from removing, hiding, secreting, harming, injuring, or in any manner altering the inventory, sales materials, accounting books and records, Distributor files, customer files, fixtures, and equipment, and any and all other documents or assets of Sevea International, Inc., removed

from the premises located at 2550 South Decker Lake Blvd., West Valley City, Utah.


(b) Ordered to immediately relinquish all inventory; sales materials, accounting books and records, Distributor files, customer files, fixtures, furniture, and manufacturing equipment, office equipment, and any and all other documents or assets of Sevea International, Inc., to plaintiff Michael N. Macris, for and on behalf of Sevea International, Inc., which were removed from the premises located at 2550 South Decker Lake Blvd., West Valley City, Utah.

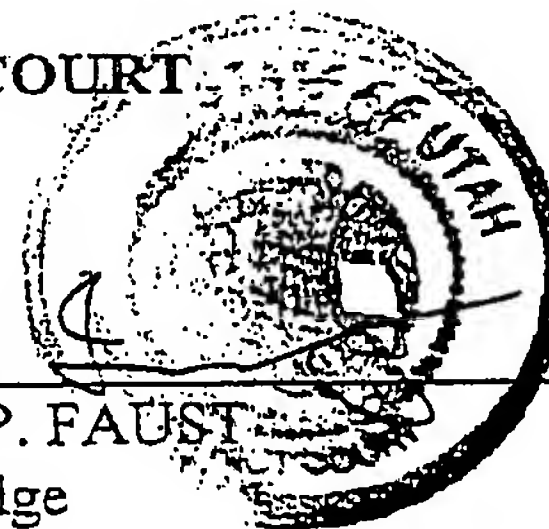
This Preliminary Injunction shall remain in effect until the trial on the merits of this case.

No giving of a surety in the form of a bond or other acceptable security is required in this matter.

DATED this 4th day of <sup>May</sup>~~April~~, 2007.

BY THE COURT

  
ROBERT P. FAUST  
District Judge



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17<sup>th</sup> day of April, 2007, I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PRELIMINARY INJUNCTION to be hand-delivered upon the following:

Sean N. Egan, Esq.  
*Attorney for Defendants*  
136 South Main Street, Suite 408  
Salt Lake City, Utah 84101

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